

App. F. IX-4

Previous References

1939.
(legis)

File No. 14-39

Serial Nos. 2

Letter References

PRESERVED

252

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for fr

1939

SUBJECT.

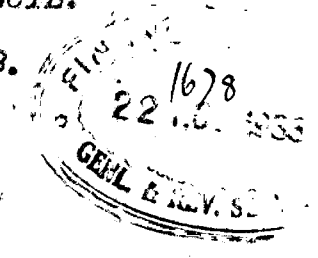
L.C. Resolution

The Insurance Act, 1939

THE MYSORE LEGISLATIVE COUNCIL.

December Session - 1988.

Resolution No: 18



That this Council recommends to the Government of His Highness the Maharaja the desirability of having some legislation to prevent undesirable and bogus insurance companies from carrying on their operations in the State.

PERSONNEL OF SELECT COMMITTEES.

No. 11. BILL FOR REMOVAL OF DISABILITIES ARISING FROM CHANGE OF RELIGION
OR DEPRIVATION OF CASTE.

- | | |
|--|--------------------------------|
| 1. Mr. K.V. Anantaraman | 7. Khan Bahadur Md. Abbas Khan |
| 2. " M. Venkatesa Iyengar | 8. Mr. P. Subbarama Chetty |
| 3. " Mirle N. Lakshminaranappa | 9. " D.V. Gundappa |
| 4. Dr. De Souza | 10. " S. Nijalingappa & |
| 5. Mr. B.S. Puttaswamy | 11. FIRST MEMBER OF |
| 6. Diwan Bahadur K.R. Srinivasa Iyengar. | COUNCIL. |

No. 12. BILL FURTHER TO AMEND THE CODE OF CIVIL PROCEDURE, 1911, for
CERTAIN PURPOSES.

Messrs.

- | | |
|------------------------------|-----------------------------|
| 1. Mirle N. Lakshminaranappa | 6. P. Subbarama Chetty |
| 2. Mr. M. Venkatesa Iyengar | 7. P.J. Crowle and |
| 3. T. Ramachandra | 8. FIRST MEMBER OF COUNCIL. |
| 4. K.R. Subbannachar | |
| 5. J. Mahomed Imam | |

No. 13. BILL FURTHER TO AMEND THE MYSORE LIMITATION ACT.

Messrs.

- | | |
|------------------------------|---------------------------|
| 1. Mirle N. Lakshminaranappa | 5. B.S. Puttaswamy |
| 2. M. Venkatesa Iyengar | 6. C. Hayavadana Rao |
| 3. K.R. Srinivasa Iyengar | 7. P. Subbarama Chetty & |
| 4. Belur Srinivasa Iyengar | 7 FIRST MEMBER OF COUNCIL |

No. 14. BILL TO AMEND THE TRANSFER OF PROPERTY ACT FOR CERTAIN PURPOSES.

N.B. (Same Members as for the LIMITATION ACT.)

No. 15. THE TRANSFER OF PROPERTY (Amendment) SUPPLEMENTARY BILL.

N.B. (Same ~~as~~ Members as for the previous 2 Bills).

No. 16. BILL TO CONSOLIDATE & AMEND THE LAW RELATING TO TRADING
COMPANIES AND OTHER ASSOCIATIONS.

Messrs.

- | | |
|---------------------------|------------------------------|
| 1. K.R. Srinivasa Iyengar | 6. M. Venkatanaranappa |
| 2. P. Subbarama Chetty | 7. M.S. Ramachandra Rao |
| 3. J. Mahomed Imam | 8. Mirle N. Lakshminaranappa |
| 4. C. Hayavadana Rao | and |
| 5. S. Abdul Wajid | 9. SECOND MEMBER OF COUNCIL. |

No. 17. BILL TO REGULATE & CONTROL INSURANCE BUSINESS IN THE STATE.

Messrs.

- | | |
|----------------------------|--------------------------------|
| 1. Belur Srinivasa Iyengar | 5. S. Shamanna |
| 2. Mahomed Abbas Khan | 6. Abdul Wajid |
| 3. D.V. Gundappa | 7. M. Venkatanaranappa |
| 4. R. C. Morris | 8. Mirle N. Lakshminaranappa & |
| | SECOND MEMBER OF COUNCIL. |

Bill No.18. BILL FURTHER TO AMEND THE MYSORE VILLAGE PANCHAYAT
ACT, 1926.

Messrs.

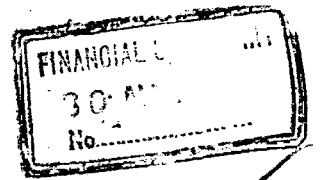
- | | |
|----------------------|------------------------------|
| 1. K.V. Anantaraman | 5. M. C. Linge Gowda |
| 2. B.T. Kesavaiengar | 6. S.Nijalingappa |
| 3. H.V. Ramasvami | 7. M. L. Nagappa Setty |
| 4. T.G. Rama Iyer | 8. T. Ramachandra |
| | 9. SECOND MEMBER OF COUNCIL. |

Bill No. 19. (Private Bill) BILL TO REMOVE ALL LEGAL OBSTACLES
TO THE MARRIAGE OF HINDU WIDOWS IN THE MYSORE
STATE.

Messrs.

- | | |
|------------------------------|-----------------------------|
| 1. B.T. Kesavaiengar | 5. K.R. Subbannachar |
| 2. A. V. Ramanathan | 6. M. S. Dyave Gowda |
| 3. Mirle N. Lakshminaranappa | 7. T. Ramachandra and |
| 4. Belur Srinivasa Iyengar | 8. FIRST MEMBER OF COUNCIL. |

MYSORE STATE LIFE INSURANCE OFFICE.



962

In reply please quote—
No. <u>5622</u>
Encl. <u>1</u>

BANGALORE,

Dated, the 27th August 1934.

30.

GEN. & REV. SECRETARIAT
4 SEP. 1934

DEVELOPMENT BRANCH.

Bangalore.

FROM

A.N. RAGHAVA CHAR, Esq., M.A.,
~~Mr. VENKATESA LINGAR, Esq., M.A.,~~

Secretary, Mysore State Life Insurance Committee,

TO

S. SHAMANNA, Esq., B.A.,
Financial Secretary to the Government of His
Highness the Maharaja of Mysore,
Bangalore.

SIR,

In forwarding herewith an Extract from the Proceedings of the Mysore State Life Insurance Committee Meeting held on 11-8-1934, I have the honor to invite reference to this Office letter No. 8897 dated 28-11-31 in the matter of the introduction of an Insurance Regulation in the State and to request that needful action may be taken in the matter.

It is deemed that the passing of such a law would be helpful in enabling the Government to exercise some sort of control over the Insurance Companies working in the State, as also to effectively - safeguard the interest of the Insuring Public in the State, while at the same time contributing indirectly to the progress of business in the Public Branch of the Mysore State Life Insurance Scheme. The need for such law has been voiced by more than one Member both in the Representative Assembly and Legislative Council.

MYSORE STATE LIFE INSURANCE OFFICE.

In reply please quote—
No. 7432.....
Encl. 1.....

14/9

BANGALORE,

Dated, the 21st September 1934.

FROM

A.N. RAGHAVA CHAR, Esq., M.A.,
~~MxxVENKATESAxxVENKATxxxxxxxx~~

Secretary, Mysore State Life Insurance Committee,

Bangalore.

TO

S. SHAMANNA, Esq., B.A.,
Financial Secretary to the Government of His
Highness the Maharaja of Mysore,
B a n g a l o r e.

SIR,

I have the honor to forward herewith for favour of needful action an Extract from the representation dated 11-5-34 of Mr. C.N. Narasinga Rao. addressed to the Dewan suggesting legislation to enforce outside Insurance Companies to recognise Succession Certificates granted by Competent Courts of Law in the Mysore State and to bring such Companies under the jurisdiction of Mysore Courts in respect of claims arising within the State.

I have the honor to be,

Sir,

Your most obedient servant,

G. Raghava Rao
For Secretary,
Insurance Committee.

The Position of Insurance in the
Federation.

According to the scheme of Federation outlined in the White Paper the incorporation and regulation of Insurance Companies is one of the subjects classified as exclusively federal. The Federal Legislature would be competent to make laws in respect of Insurance Companies, and such laws would be operative within the territories of Mysore in case it joins the Federation, since it is the essence of federation, that the enactments of the Federal Legislature should apply proprio vigore within the limits of the constituent units of the Federation.

But this does not mean that the present Indian Life Assurance Companies Act of 1912 (VI of 1912) would become applicable to Mysore immediately on its adhesion to the Federation. It is only the Act that may in future be passed by the Federal Legislature that would displace the law in Mysore, and till then the existing law would continue to be in force in Mysore.

EXTRACT FROM THE REPRESENTATION OF MR. C.N. NARASINGA RAO;
ON THE " NECESSITY OF A MYSORE LIFE INSURANCE REGULATION "
ADDRESSED TO THE DEWAN OF MYSORE., WITH THE REMARKS MADE BY
THE DEWAN.

3. As a rule these foreign companies do not recognise the Succession Certificates granted to the heirs of a deceased assured person of Mysore courts; they do not recognise the Probate or Letters of Administration issued by competent Courts of Law in Mysore with the result that the State loses considerably in Stamp Revenue, they being forced to go ^{to} the Resident's Court for this purpose. Apart from loss of Revenue this is a matter affecting prestige of the State and its court

Can't we make them do this ?

4. Being foreign companies, under the existing law, these companies cannot be sued in Mysore and Mysore Subjects are forced to go to the head quarters of those concerns to file suits if any against them. As a matter of fact if a Mysore Assurance Company is to do business in British it has bind itself to the Rules and conditions of the Indian Life Assurance Companies Act of 1912.

ey don't ke any vestments the State self.

X X X

9. By similar and other provisions relating to the recognition of the Succession Certificate etc., of the Mysore Courts while on the one hand the Revenues of the State increase and its securities appreciate in value, it will result also in far greater security to the life policy holders in the State. It

Section *C-2*
File No. *W-35*

Serial No.

No. 2832

The Secretary
to the Board of Industries & Commerce
Bangalore.

Sis

I am directed to request that
the financially aided question
be placed before the Board for
a detailed examination and
to forward their ~~recommendations~~
^{forwarded} proposals as early as possible.
date

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 23rd July 1935.

No.

7c 832

From

The Financial Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Secretary to the Board
of Industries and Commerce Bangalore.

Sir,

I am directed to request that the ^{questions}~~propositions~~ (noted below) may be placed before the Board for a detailed examination and proposals forwarded to Government at an early date.

- (1) Introducing Life Assurance Companies Regulation for regulating the working of Life Assurance Companies (both) (with local and foreign companies)
- (2) Introduction of a special Banking Regulation to provide for several important matters affecting Banking.

I have the honour to be,

Sir,

Your most obedient servant,

m. Shannave

For Financial Secretary to Government.

W

TSS.

VI. G. 7]

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE SECRETARIAT.

No.

dated the 20/9/1935

REPLY.

No. 274, dated the 24th Sept 1935



To
The Secretary to the
Board of Industries & Commerce,
Bangalore

To

The Secretary to the Government of
H. H. the Maharaja of Mysore,
.....Financial..... Department.

(1) SUBJECT.

Re: Proposals introducing Life
Assurance Co^s Regulation for regulating
The working of Life Assurance Co^s
(2) introducing a special Banking
Regulation to provide for several
important matters affecting Banking

Sir,

I am directed to state that

the subjects are still under consider-

ation and that the views of the Board

will be communicated soon after the next

SIR,

I am directed to invite attention to
the marginally
*No. 832 dated 24/9/35 noted communi-
cation and to request
that the Government

of His Highness the Maharaja may be
informed, in the column opposite, of the
cause of delay in furnishing a reply and
of the approximate date on which reply
may be expected.

I am also to request that the reply
to this reminder may be sent not later
than the at an early date.

I have, etc.,

K Venkatar
For Secretary to Government,
Finance Department.

meeting of the Board is over.

I have the honour to b
Sir,

Your most obedient servant,

A. K. Ramani
Secretary.

Section.

File No.

Serial No.

Diary No. of letter replied to.....

No. 52494

To

General and Revenue Secretariat.

()

the 193

Date of issue

9/1/36

Signed by

M. V. M.

The Secretary to the Board of

Ind. & Com.

Sir,

I am directed to invite attention to this office communication No. 76832 12247-3 re: proposals ^{for} (1) introducing Life Assurance Co's Regulation for regulating the workings of Life Insurance Co's ^{for} (2) in introducing a special Banking Regulation to provide for several important matters affecting Banking, and to request

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, Dated 9th January 193⁶

No.

5294

From

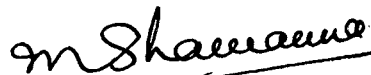
The Financial Secretary to the Government of His Highness the Maharaja of Mysore.

To The Secretary to the Board of Industries and Commerce,
Bangalore.

Sir,

I am directed to invite attention to this office communication No.F1.832 dated 24th July 1935 re: proposals for (1) introducing Life Assurance Company's Regulation for regulating the working of Life Insurance Companies and for (2) introducing a special Banking Regulation to provide for several important matters affecting Banking and to request that a reply thereto may be expedited.

I have the honour to be,
Sir,
Your most obedient servant,



For Financial Secretary to Government.

mk.

SUBJECT.....

Section.

File No.

Serial No.

No.

Diary No. of letter replied to.....

To

6124

General and Revenue Secretariat.

()

the

193

Date of issue

13/2

Signed by

M. M. S.

Sir,

I am ^{desired} ~~directed~~ to invite

your personal attention this

Communication no. 72832 &

24-7-35 re: proposals for

introducing Life Insurance

Ces Regulation for regular

the working of Life Insurance
to the subsequent Revenue no. 765494 & 9-1-36
Ces &c. and to request

to expedite your reply there

Yours sincerely,

8/2/36

W. M. S.

To

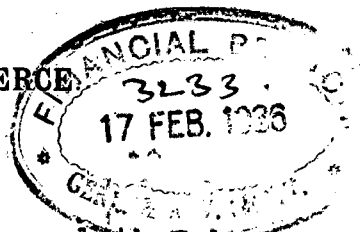
now sent to the Board of Ad.

Com.

B. I. C. 3.]

D. O. 682

BOARD OF INDUSTRIES AND COMMERCE



Mr. H.K. Ramiengar, M.A. (Hons),

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Secretary.

For perusal Bangalore, dated 14th February 1936.

H. Leey) 15/2/36

Dear Sir,

With reference to the correspondence ending with your D.O. letter No. Fl. 6124/G.F. dated 13th February 1936 regarding the proposals for introducing legislation for regulating the several matters affecting the working of the Life Assurance Companies and also the Banking Companies in the State, I am directed to state that both the subjects have been referred to the Trade, Commerce and Labour Sub Committee. A meeting of this Sub Committee has been arranged to be held on the 19th instant and I shall write to you again as soon as their recommendations on the subjects are available.

Yours sincerely,

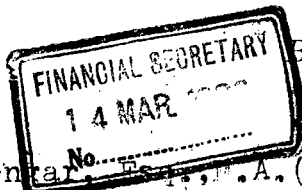
H.K. Ramiengar

B. I. C. 1.]

BOARD OF INDUSTRIES & COMMERCE,

No. 704/Euc1.

Bangalore, dated...12th March...1936.



FROM

H. K. Ramienra, Esq., B.A. (Fons)
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Secretary, Board of Industries and Commerce,

BANGALORE

To

S. Shamanna, Esq., B.A.,
Financial Secretary to the
Government of Mysore, Bangalore.



SIR,

Reference:- Introduction of legislation for regulating
(1) the working of the Life Assurance Companies and (2) Banking
business.

In continuation of my letter No. 682 dated 14th February 1936 stating that a meeting of the Trade, Commerce and Labour Sub Committee had been arranged to be held on 19th February 1936, I am directed to state that the Sub Committee considered these subjects and a copy of the proceedings of the meeting of the Committee is sent herewith for your kind information.

The views of the Sub Committee will be placed Board at their next meeting and their ^{opinion} ~~views~~ in the matter intimated to you in due course.

I have the honour to be,
Sir,
Your most obedient servant,

H. K. Ramienra
Secretary.

CONFIDENTIAL.

BOARD OF INDUSTRIES AND COMMERCE.

Trade, Commerce and Labour Sub Committee.

Proceedings of the meeting held on Wednesday the
19th February 1936 at 3 P.M

P r e s e n t.

1. Rajasevasakta Mr. G. Hiriannaiya, M.A., B.L. (Chairman)
2. S. Abdul Wajid, Esq., B.A.
3. Dr. B. Narasimha Iyengar, B.A., Ph.D.
4. M. R. Narasimha Iyengar, Esq.
5. K. Srikantaiya, Esq.

Mr. H.K. Ramiengar, M.A. (Hons)

(Secretary)

A b s e n t.

1. P.W. O'Brien, Esq. (Letter expressing his inability to attend the meeting was received).
2. Dharma Pravarttha Mr. M.L. Nagappa Setty -do-
3. The Registrar of Co-operative Societies.
4. B. Abdul Rahmon, Esq., B.A.
5. M. Ramachandra Rao Sindhia, Esq.

The Committee considered the enclosed note prepared by

1. Introduction of legislation for regulating several matters affecting banking business. the Secretary containing the more important

recommendations of the Central Banking Enquiry Committee. The Secretary referred to the appointment by the Government of India of a Special Officer to go into the question of amending the Law relating to Companies in British India and to the statements in the Press that his report was under the consideration of the Government of India with a view to take immediate action in the matter. He pointed out the need for guarding the interests of the depositors and shareholders of the banks by making suitable provisions for regulating their business.

He referred to the several recommendations of the Central Banking Enquiry Committee summarised in the note and stated that if they were found suitable they might be incorporated in a separate Banking Regulation or in the existing Companies Regulation as amendments. The point for consideration was whether it was advisable to take immediate action here or to await the action by the Government of India in this behalf.

The Committee was of opinion that immediate action should be taken to amend the Companies Regulation with a view to regulate the business of the Joint Stock Banks in the State.

The chief provisions to be made were next taken up for consideration. The Chairman stated that one of the recommendations of the Banking Enquiry Committee was that no bank should be permitted to start the business unless it had at least a paid-up capital of Rs 50,000/-. He enquired of the members if this limit might be adopted in the State. Mr. K. Erikanthiah said that it was a modest figure and could be adopted and that no bank could work successfully unless it had at least a paid-up capital to the extent proposed. The sense of the meeting was that it was necessary to adopt this restriction.

Referring to the recommendation of the Banking Enquiry Committee that all banks should take out licenses from a recognised authority appointed in this behalf, the Chairman stated that it was desirable to introduce the system of granting licenses. He thought that it would be better if the licenses are issued by Government and made subject to periodical renewals. It was pointed out by the members that the conditions of the license might include several recommendations of the Banking Enquiry Committee and that the law might provide suitable penalties for a breach of the conditions of the license. The Committee were of opinion /the system of

of issuing licenses might be introduced.

Mr. M.R. Narasimha Iyengar referred to the practice of some banks carrying on business in agricultural commodities and suggested the desirability of prohibiting banking business being combined with other businesses as recommended by the Banking Enquiry Committee. In the interests of sound banking it was thought necessary to enforce this condition.

The question of introducing restrictions regarding the grant of loans and the nature and extent of securities to be accepted was next considered, and as recommended by the Banking Enquiry Committee, it was found desirable to leave these matters to the discretion of the directors of the bank. The Chairman stated that the practice of a bank advancing loans on the security of its own shares should be stopped. It was also considered desirable to prohibit an auditor of a bank or a member of a firm of auditors appointed by a bank from receiving any advances. The members agreed that these provisions should be incorporated.

The Secretary then explained the recommendations of the Central Banking Enquiry Committee regarding the information to be furnished in the audit report and the penalty to be imposed for not disclosing material particulars, the preparation of the balance sheets and its display in place of the statement of assets and liabilities required to be exhibited by the banks. The members thought that it was desirable in the interests of the shareholders to adopt these suggestions, particularly the one imposing a penalty on auditors for omitting to disclose material particulars.

The Committee considered the desirability of the Law providing for declaring a moratorium in certain cases. The Chairman said that the effect of such a provision might lessen the responsibility of the management under the belief

believe that when an emergency arose, a moratorium could always be resorted to. The members thought that the provision would be beneficial if it is sanctioned by Government only in extreme cases in the interests of the general public and share-holders.

Mr. K. Srikantiah brought to the notice of the Committee that the practice of voting by proxy at the annual general meetings of the Companies was liable to abuse and wanted to know if it could not be stopped in the interests of the share holders. The Banking Enquiry Committee had considered this question and were not in favour of any change in the existing practice of one vote for each share held by the shareholder in a Joint Stock concern. They thought that it was possible for the promoters of a company to provide for safeguards in the Articles of Association against individuals or groups of individuals acquiring a controlling interest in the company. The views of the Banking Enquiry Committee were accepted.

The Committee finally resolved that without waiting for the final decision of the Government of India on the report of the Special Officer appointed to go into the question of amending the Companies Law, action might be taken here to amend the existing Companies Regulation as indicated above with a view to provide for regulating the business of the Joint Stock Banks in the interests of the general public.

The Committee considered the note on the subject (copy

2. Introduction of legislation for regulating the working of the Life Assurance Companies in the State.

enclosed) prepared by the Secretary.
The Secretary explained the main features of the existing law in British India and stated that the question of amending the existing Life Assurance Companies Act was under the consideration of

of the Government of India. He referred to the various suggestions made in this connection by the Life Assurance Offices Association and the Federation of the Indian Chambers of Commerce.

The necessity for legislation was discussed. The members examined the statement furnishing particulars of the Life Assurance Companies working in the State and found that several companies had started business without adequate capital. There was also a keen competition among them. A multiplicity of small Life Offices was not in the best interests of the society as a whole. Further the Government had introduced a scheme of life assurance for the benefit of the general public. Having regard to all these factors, the members were of opinion that it was very necessary to introduce legislation for regulating the working of the Life Assurance Companies. It should be made applicable to the Companies registered here as well as to those that were registered outside but were doing business in the State.

The amount to be deposited by a Life Assurance Company engaged in the assurance business was next considered. The Committee considered the provision in the Indian Act (Sec.4) and decided that a minimum deposit of one lakh of rupees might be prescribed here as it would assure the starting and working of such companies with adequate capital on sound lines. The Committee thought that the other provisions of the Indian Life Assurance Act might be ~~introduced~~ incorporated in the proposed Regulation in so far as they can be made applicable to the State.

One of the members suggested that Government might be requested to proceed with the legislation as early as possible. This was agreed to by the other members.

It was resolved to recommend to Government that it was

was necessary to introduce legislation in the State at an early date for regulating the working of the Life Assurance Companies with modifications as suggested above.

H.K. Ramiengar,
Secretary.

S. Hiriannaiya,
Chairman.

" C o p y "

H.K. Ramiengar
Secretary, 12/5
Board of Industries & Comm

BANKING LEGISLATION.

The question of introducing a special Banking Regulation has been referred to the Board for a detailed examination by the Financial Secretary to Government in his letter No. 832/G.F. dated 23rd July 1935.

To facilitate the consideration of this subject, a brief account of the existing Banking Institutions in the country is given below.

According to the Annual Report of the Registrar of Joint Stock Companies, the total number of Joint Stock Banks working in the State on 1st March 1935 was 49. Their authorised capital was Rs 204 lakhs, subscribed capital Rs 45 lakhs and the paid-up capital Rs 41 lakhs.

Along with regard to the deposits received from the public, reserves built up, nature and extent of advances made, balances on hand, etc. Besides the banks registered here, there were seven banks registered outside the State but carrying on business in Mysore. Complete information is not available as regards their authorised, subscribed and paid-up capital. The total paid-up capital of these may not go beyond Rs 30 lakhs.

During the past 10 years there has been no great improvement in the growth of the banking institutions in the country. At the end of the year 1924-25, there were 43 banks with an authorised capital of nearly Rs 600 lakhs, subscribed ~~capital~~ capital of Rs 90 lakhs and paid-up capital of 41.6 lakhs. There was only one foreign company registered outside the State and carrying on business here. There has always been a great disproportion between the paid-up, subscribed and authorised capital of the several companies. Most of the banks working in the State are concentrated in Bangalore, Mysore and half dozen places in the interior.

paid-up capital of and over a lakh of rupees. Six banks have a paid-up capital of Rs 50,000 and over and 15 banks have a paid-up capital of less than Rs 10,000/-. It is not known how many of these have strictly been confining their attention to the business of banking only or carrying on banking with other trade operations. There is no information available regarding the extent to which they have been financing the industries and trade of the country

Apart from the Joint Stock Companies, private banking firms have been doing business in the State from a very long time. The total number of such firms is estimated at 25, mostly owned by Multanees & from Sind-Hyderabad and Marwaries, the indigenous firms being only a few in number. The Multani bankers have been financing the trade and industries in the State to a great extent. Their trading operations are extended all over the State and cover several important lines of business. They largely import capital from Sind at very low rates of interest. Great care is taken to see that the capital is used for productive purposes only. They also have a regular transaction with the Joint Stock Banks and see that their capital is rapidly circulated. The chief factors that have contributed to their success are the facilities they have for borrowing capital at low rates of interest, their character, business ability and integrity and their readiness to avail themselves of the facilities offered by the local joint stock banks. The Marwari money lenders generally make advances to those who purchase goods from ^{them} him. Both Multanees and Marwaries are not bankers in one sense in as much as they do not attract any deposits from the public in the State. In all other respects, they perform the functions of the Banks.

Restrictions are imposed on the banking operations in some form or another in the several countries on the Continent and in America according to their requirements. Joint Stock Banks in India are governed by the Indian Companies Act in regard to several matters such as constitution, incorporation, articles of Association, share capital, maintenance of the register of members, management and administration, inspection and audit, liquidation, publication of balance-sheets, appointment of directors, etc., etc. It is the general opinion expressed in several quarters that the Companies Act touches only the fringe of the problem of banking legislation and that there should be some more legislation for regulating the operations of the banking institutions in the country.

This question has been engaging the attention of the Government of India for several years past. The Central Banking Inquiry Committee made a careful examination of this subject and they were not in favour of introducing elaborate banking regulations in regard to matters ~~which~~ which it would be prudent to leave to the discretion of the directors and management. At the same time, they recognised the existing provisions in the Companies Act with regard to banking institutions were very inadequate. There were two ways in which the existing regulations could be amplified, viz, (1) by introducing a special banking Act with suitable provisions governing all banking institutions or (2) by amplifying the Indian Companies Act so as to provide for the additional matters to be dealt with by legislation. The Committee finally preferred the first alternative and recommended that a special Banking Act should be passed comprising the existing regulations embodied in the Indian Companies Act with modifications and additional provisions referred to below. They also urged that the foreign banks operating in India should be brought within the purview of the proposed Act.

Committee for being incorporated in the proposed Act may be considered under the following heads, viz, organisation, management, audit and inspection and liquidation and amalgamation.

(1) ORGANISATION. All banks Indian or non-Indian - should be required to take out licenses from a recognised authority appointed in this behalf, e.g., the Reserve Bank of India. This is felt to be necessary with a view to safeguard the interests of the depositors and also to facilitate some control being exercised over the banking operations in the country. Before the licenses are granted, the financial position of the new banks, general standing and reputation of its directors are required to be carefully scrutinised. The Act should also provide that the majority of the Directors of the Banks, other than the foreign Banks, should be the natural born or domiciled Indians and that no new bank other than the foreign bank should be allowed to operate unless it had a majority of Indian shareholders and was incorporated under the Indian law. The banking business should not be allowed to be combined with the business of trade. The Committee also recommended the law should prohibit the organisation of a bank on the managing agency system and also provide that any arrangement made subsequent to the passing of the law for conducting the management of a bank on such a system should be void. Further, the law should prevent the growth of mush-room banks with insufficient capital. No bank should be allowed to commence business unless it had a paid-up capital of Rs 50,000/-. The authorised capital of a bank should not be more than double the subscribed capital and the paid-up capital should be 50 per cent of the subscribed capital before the commencement of the business.

(2) MANAGEMENT. There should be no distribution of dividends in any year until the Bank had set aside for being taken to the reserve, an amount equal to 2½ per cent of the paid-up capital and that this restriction should be in operation until the reserve fund reached the level of the paid-up capital.

Committee considered several suggestions for insisting on the banks the need for holding a minimum reserve cash. Such a provision was considered necessary to prevent the cash reserve of a bank being depleted to a point endangering its solvency. They concluded that it was not desirable to prescribe any statutory provisions on this subject. Similarly the grant of loans, securities to be furnished, the limit of advances to be made in individual cases, etc., require to be regulated according to sound banking principles and it was found not advisable to lay down any hard and fast rules to regulate these matters. The Committee therefore decided to leave these to the discretion of the management and control of the Board of Directors. But with regard to the grant of advances by a bank against its own shares, they were of opinion that there should be a clear provision made in the Act prohibiting the grant of such advances and prescribing limitations for making loans to the directors, managers and members of the staff of the Bank. Similarly an auditor of a bank or a member of a firm of auditors should be prohibited from receiving any advance from the bank. As regards borrowing powers of the bank, they recommended that there should be a provision expressly prohibiting banks from creating at any time a mortgage or any charge on their uncalled capital or any part thereof.

(3) AUDIT AND INSPECTION. It was brought to the notice of the Committee that the auditors were in the habit of passing over important matters which should have been brought to the notice of the shareholders. The existing law provides that whoever makes a false statement knowing it to be false is liable to punishment. But it does not provide any penalty for omitting to make a statement. The Committee therefore recommended that there should be specific provision rendering officers or auditors of a bank liable to punishment if they omit to mention material facts in their reports, presentation of accounts etc of a bank.

They recognised that there was justification in the demand that the balance-sheets now published by the banks should contain more information than what it is usually embodied there-in at present. The form of the balance-sheets now in vogue was considered to be not comprehensive enough. More detailed particulars were required to be furnished by the banks especially as regards the book-debts, loans to the directors and officers and the nature and value of the investments. At present the banks need not disclose the bad and doubtful debts if against such debts suitable provision had been made to the satisfaction of the auditors. The new form of balance sheet to be prescribed by law was suggested by the Committee. Every bank is required to make a statement in the prescribed form regarding its assets and liabilities and the Committee recommended that in lieu of this statement the banks should display a copy of their entire balance sheet.

(4) LIQUIDATION AND AMALGAMATION. The Committee recommended that the law should permit a temporary moratorium to prevent untimely and compulsory liquidation of a bank when it is in difficulties. The desirability of protecting banking institutions against wild rumours and unjust attacks was forcibly brought to the notice of the Committee. After considering the various suggestions to prevent such attacks, the Committee stated that they were not in a position to suggest any legal remedy but wanted to leave it to the Legislature to protect banks from such frivolous proceedings.

The Committee felt that it was necessary to provide special safeguards for protecting the interests of the Indian depositors and creditors of a non-Indian Bank the event of its winding up. They recommended that there should be some arrangement under which the Indian creditors of non-Indian institution going into liquidation should have a prior claim to its assets in India and also a share in the general distribution of its assets outside the country, should there be a

a shortage ^{in the currency} held in India.

The question of introducing a special Banking legislation was also considered by the Ceylon Banking Commission (1934) presided over by Sir S.N. Pochakhanawalla. The Commission recommended the desirability of introducing legislation more or less on the lines indicated above with suitable modifications. The Commission advocated the maintenance of a register of banks, the issue of licenses to the registered banks, the grant of a certificate for commencing business, etc. One of the conditions to be satisfied is that every bank should have a minimum paid-up capital of Rs 50,000/- before it started business.

It is a point for consideration whether it is not desirable to await the action that may be taken by the Government of India on the recommendations of the Central Banking Enquiry Committee and also on the recommendations of the committee that may be constituted for considering the report of the Special Officer appointed by the Government of India to enquire into the working of the Indian Companies Act.

The statement appended to this note gives particulars of the Life Insurance Companies, both local and foreign, working in the Mysore State on 31st March 1935. The information was kindly furnished by the Registrar of Joint Stock Companies in Mysore. It is seen from the statement that there were in all 17 companies working in the State of which only five had a paid-up capital of more than a lakh of rupees and that there is a great disproportion between the paid-up capital of these companies and the total authorised capital. As many as six of these companies had a very small paid-up capital ranging from Rs 2,000/- to Rs 18,000/-.

In British India the working of Life Insurance Companies is governed by the Indian Life Insurance Companies Act of 1912 as amended in December 1928. The provisions of the Act are applicable to all companies whether incorporated or otherwise registered in India or outside - carrying on life insurance business within British India. Every company is required to deposit with the Controller of Currency two lakhs of rupees invested in Government Securities. If a company transacts other business besides that of life insurance, it is required to maintain separate accounts in respect of its life insurance business only and the life insurance fund kept separately should form the security of life policy holders. Provision is made for the preparation and submission of the revenue accounts, profit and loss accounts and balance sheets in the prescribed form and for the publication by Government once a year of information furnished by the companies. The accounts

accounts of the assurance companies are required to be audited every year. Once in five years, the financial conditions of their affairs - including their liabilities, valuation of their securities, etc. - are required to be investigated by actuaries and their reports are to be furnished in the prescribed form. Government may also appoint, when necessary, one or more ~~xxxx~~ inspectors to examine the affairs of the life assurance companies and to submit reports thereon. The law provides for the absorption of the weaker companies by the stronger ones and special provisions are made for the winding up of the companies. The penalty prescribed for the breach of the provisions of the Act is a fine extending to 1,000/-. If any account, balance sheet, statement, etc. is found to be false, the person responsible for the same is liable to imprisonment which may extend to two years or with fine or with both.

Government of India appointed a Special Officer to examine the working of the Indian Companies Act and to submit his proposals for amending the Company Law. It is seen from the daily papers that the proposals submitted by him are being considered by the Government with the representatives of Indian Trade and Commerce. It is too early to say what action the Government are likely to take with regard to the amendment of the Indian Life Insurance Companies Act.

The Indian Life Insurance Offices Association and the Indian Merchants' Chamber and Bureau, Bombay, have submitted to Government of India some useful suggestions in this connection. They urge that the present Act should be repealed and in its place a new comprehensive Act should be introduced covering all forms of insurance as life, fire, marine, motor car, por-

providing the officers of that Department with powers to exercise effective control over the life assurance business carried on both by Indian and non-Indian companies. They suggest that insurance Companies working in British India should have full liberty of carrying on business in Indian States and that the Indian States should be precluded from enacting any laws which may affect the working of these companies within the jurisdiction of the States. Both the Indian Chamber and the Association of Life Offices point out the need for introducing some uniform principles governing the inheritance of money falling due for payment under a policy of life assurance. The introduction of a system of licensing the agents of the insurance companies is recommended with a view to raise the standard of conduct among the agents and also to

The advent of a large number of new companies has resulted in intensifying the struggle for existence and forcing up expenses to uneconomic levels. Most of the companies of under 10 years' standing have not yet secured a footing and the indiscriminate flotation of new life assurance companies will not be conducive to the best interests of the enterprise in India.

Permit me to place the following few lines for your kind personal which I feel important in the interest of Mysore and its people.

Our Country "The Model Mysore" has been purely an agricultural one. You are aware their toils and hardships to earn their daily bread. Whenever opportunities have come as a true patriot you have ameliorated their cause.

With your kind permission may I say that there are certain vital aspects in the life of the Mysorian which are to be carefully observed, thought of and well guarded. One of them - being at present ^{3.36} most important - is the pest of mushroom insurance companies. By this statement I do not mean to decry the laudible objects of insurance and its benefits, nor discourage those who have already insured and to insure in future. Experience has shown that it is the only form and the best form of savings and recognised all over the world not as a luxury but as a necessity. To put in the words of a great man - *individual protection but an unconscious Charity*, "Life Insurance gives not only a social service, nay, even philanthropy to the less fortunate and short lived families.

Of recent there has been a great insurance awakening in India and to a certain extent in Mysore also. For the past few years we have been observing the birth and decay of several Companies whose careers are very sorrowful and the plight of those members who joined such Companies is rather pitiable. During the course of organisation work of the "Mysore Insurance Co., Ltd., Bangalore" I have come across several such instances resulting in serious consequences to the State in general.

Living in a "Model State" - a "Rama Rajya" within "Model towns and villages" controlled and governed by a "Model King", a "Model Dewan" and "Model Government" we are not yet in a position to call ourselves as "Model Citizens" as we still feel we are wanting in many directions, To add another feather to the "Crown of Glory Mysore" I beg to suggest that it is time to Government to bring in proper legislation to guard the interest of the State and its subjects.

There are over 200 Companies transacting various kinds of insurance business in India - both Indian and Non-Indian. Mysore is one of the richest fields for all of them and every Company year by year has been securing a moderate amount of business. I may mention that Oriental Life Assurance Co., Ltd., holds Mysore as its best place in its estimation.

By the establishment and development of the "State Life Insurance Schemes" the country and its people are blessed and a good portion of precious Mysore Money is conserved in the State doing a good turn to the country at large.

Besides retaining our money in the State in the above form we are sending out every year over Rs. 25/- lakhs as premium income to Companies established outside the State and beyond seas as well. Over such a large sum the Government has no control nor gets any return in the shape of income-tax or in any other form. No part of their income is invested in proper securities of the State giving adequate protection.

Of late some Non-Mysore Companies to attract more business in the State have made investments in the Government Loan Bonds. I am of opinion that it can never be reckoned as a permanent investment, as it is entirely left to the option of the Company to convert into cash when required. United India Assurance Co., Ltd., of Madras is one such.

With your permission may I be permitted to say that it is high time for the State to have some kind of control and supervision over

are still ignorant as is in British India of Modern methods of business and wanting in alertness for the protection of their own interests it is essential that the Government should exercise a larger supervision than is the case in the countries where the people are wide awake and more used to modern industrial methods. The policy of Laissez faire adopted in England will not do for India or Mysore in particular. It is submitted therefore that an Insurance Department should be organised by the Government for the purpose of regulating insurance business in the State with the following powers.

1. No Company should be admitted to do business in the State unless it is approved by the Insurance Department and licence is issued for the purpose.
2. Every Company should be called upon to bring in a statutory deposit say- a minimum of two lakhs of rupees for every class of business and it should also be made obligatory on such Company to keep in this country sufficient reserve to meet its obligations.
3. Every Foreign Company (Non-Mysore) doing business in this State shall be called upon to file a separate revenue ~~account~~ account and Balance Sheet of its Mysore Business under various heads
4. Where countries impose restrictions on foreign insurance Companies similar restrictions should also be imposed in this country.
5. Only companies which issue separate Balance Sheet and which have their own independent Board of Directors should be given license.

Lloyds" should be treated similarly.

On behalf of our country men may I hope that you will make necessary enactments if found reasonable and protect us from such pests.

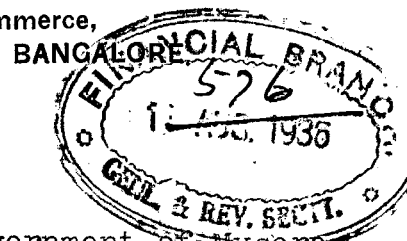
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B. I. C. 1.]

No. 73/ Enc 3.

FROM

H.K. Ramiengar, Esq., M.A. (Hons),
~~XXXXXX ANANTASUBRAMANYAM Esq. XXXX~~
Secretary, Board of Industries and Commerce,



To

The Financial Secretary to the Government of Mysore,
Bangalore.

SIR,

Reference:- Introduction of legislation for regulating
the working of the Life Assurance Companies and
(2) Banking business.

In continuation of this office letter No. 704 dated 12th March 1936 forwarding copy of the proceedings of the meeting of the Trade, Commerce and Labour Sub Committee held on 19th February 1936, I am directed to state that the recommendations of the Sub Committee on the subjects were considered by the Board at their meeting held on 29th July 1936.

With regard to the introduction of the legislation re. the Life Assurance Companies in the State, it was resolved to recommend to Government that immediate action should be taken to introduce the legislation for regulating the working of the Life Assurance Companies in the State and that the business in other forms of insurance might be regulated later on as and when it was found necessary.

Re the introduction of legislation re. the banking business, the sense of the meeting was that it was desirable to defer taking action till the draft Bill amending the Companies Act introduced in the Legislative Assembly was passed and that if the Bill was not passed into law in about a year, Government be requested to introduce legislation on the lines recommended by the Sub Committee.

I send herewith for your kind reference a copy of the proceedings of the meeting of the Trade, Commerce and Labour Sub Committee held on 19th February 1936 and copies of extracts from the proceedings of the

Extract from the Proceedings of the meeting of the Board
~~held~~ of Industries and Commerce held on 29th July 1936.

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The Chairman called upon Rajasevasakta Mr.S. Hiriannaiya
to explain the recommendations of the Trade, Commerce and Labour

I. Introduction of legislation for regulating the working of
the Life Assurance Companies in the State. Sub Committee on the
subject. Rajasevasakta

----- Mr. S. Hiriannaiya stated

that the Sub Committee had considered the subject carefully and
were convinced of the immediate need for introducing legislation
to regulate the working of the Life Assurance Companies in the
State with a view to safeguard the interests of the public. One
of their recommendations was that all assurance companies in the
State should deposit a sum of one lakh of rupees with Government
in the form of securities. This would prevent a number of small
concerns with inadequate capital from coming into existence. The
legislation was to be made applicable to all companies carrying on
business in the State irrespective of the fact whether they were
registered in or outside the State. Rao Bahadur B.K. Garudachar
stated that it was necessary that immediate action should be
taken by Government to introduce legislation. He pointed out
several instances of the life assurance companies whose paid-up
capital was too small to permit of their carrying on business on
sound lines. Rajasbhabhushana Sir C.V. Raman enquired whether it
was not desirable to allow some time to the new companies to
deposit one lakh of rupees with Government. The Chairman referred
to the provisions in the Indian Life Assurance Companies Act and
stated that similar provisions might be made here also, if neces-
sary. Rajasbhabhushana Sir C.V. Raman pointed out that it was
desirable to proceed cautiously in the matter and that some more
information regarding the working of these assurance companies
should be collected. Rajasevasakta Mr.S. Hiriannaiya observed
that, to begin with, the legislation might be of an enabling
character with powers vested in Government for extending its

its scope as need arose.

Rajasabhabhushana Diwan Bahadur K.R. Srinivasa Iyengar pointed out the hardships that would be caused to mutual life assurance companies if the deposit of a large amount was insisted upon at the outset. Mr. Ramachandra Rao Sindhia and Raja-charitha Visarada Rao Sahib C. Hayavadana Rao were agreed that a deposit of one lakh was necessary but suitable provision might be made for the gradual payment of this amount as the business of the companies developed.

After some more discussion, it was resolved to recommend to Government that immediate action should be taken to introduce legislation for regulating the working of the Life Assurance Companies in the State and that the business in other forms of insurance might be regulated later on as and when it was found necessary.

Name	Address.	Authorized.	Capital		Paid-up.
			Subscribed.		
1. The Asiatic Government Security Life Assurance Company, Ltd.	2808, Channandi Extension, Mysore.	1,68,585	1,68,585		1,68,525
2. Reliance Assurance Company, Ltd.	7/93, New Tharagupet, Bangalore City.	5,00,000	53,300		22,275
3. Mysore Mutual Benefit Association, Ltd.	1779, Dodpet, Sagar.	1,00,000	^{4,000} 9,550		1,070
4. Sri Jayalakshmi Insurance and Banking Company, Ltd.	No. 11, Surveyor Street, Dasavangudi, Bangalore City.	2,00,000	7,550		1,070
5. Mysore Insurance Company, Ltd.	Sri Harasimharaja Road, Bangalore City.	3,00,000	82,300		18,730
6. Modern India Insurance Co., Ltd.	28, Gandhi Nagar, Bangalore City.	1,00,000	2,000		2,000
7. Bharat Insurance Co., Ltd.	Bangalore City.	10,00,000	Latest Balance sheet not received.		
8. Commonwealth Assurance Co., Ltd.	Sri Krishna Buildings, Avenue Road, Bangalore City.	5,00,000	2,00,000		1,02,015
9. Country Assurance Company, Ltd.	Avenue Road, Bangalore City.	1,00,000	Latest Balance sheet not received.		
10. General Assurance Society, Ltd.	III Road, Channarajpet, Bangalore City.	5,00,000	65,325		1,33,325
11. United India Life Assurance Co.	167, Harasimharaja Road, Bangalore City.	2,00,000	..		79,400
12. Venus ^{Bank} Life Assurance Co., Ltd.	11, Cavalry Road, Bangalore	10,00,000	5,00,000		1,70,177-0-0
13. Zenith Life Assurance Co., Ltd.	129, Mangamany Temple Street, Bangalore City.	1,00,000	1,00,000		50,000
14. India Equitable Insurance Co., Ltd.	158, Harasimharaja Road, Bangalore City.	10,00,000	..		1,02,275
15. Gujarat Popular Insurance Co., Ltd.	89, Balanet, Bangalore City.	20,000	3,700		3,700
16. Kurukshetra Insurance Co., Ltd.	Cottonpet, Bangalore City.	1,50,000	10,600		3,007
17. Three Life Insurance Co., Ltd.	Commercial Buildings, Sri Harasimharaja Road, Bangalore City.	1,00,000	12,000		12,000

STATEMENT OF GENERAL PRINCIPLES.

There is at present no legislation exclusively applicable to insurance companies carrying on business in Mysore and they are governed by the provisions of the Mysore Companies Regulation. The control of the insurance business under the law relating to ordinary companies being admittedly unsatisfactory, the introduction of separate legislation for ^{to} protecting the interests of the insuring public has been under the consideration of the Government for some considerable time. Representations have also been received from time to time from public bodies and individuals suggesting early action on the lines of the British Indian enactments.

The law relating to insurance in British India is contained in Act V of 1912, which regulates Provident Insurance Societies, Act VI of 1912, which regulates Life Assurance Companies and Act XX of 1928 which amended the latter in certain respects. This law was considered unsatisfactory and the Government of India attempted a comprehensive amendment of it in their Bill published with notification dated 17th June 1925. This Bill, however, made no progress as the English law on which it had been based, had itself been taken up for revision. The Committee appointed by the Board of Trade in England ^{to make suggestions for} improving the law completed its enquiry in 1927 but as this was not followed up by any legislation, the Government of India decided to proceed with the reform of insurance law. A Bill embodying ^{the} Government's proposals was introduced in the Indian Legislative Assembly in the early part of this year and ^{has since been passed by that body} was referred to a Select Committee. The report of this Committee is now under discussion in the Indian Legislative Assembly ^{of a} Bill relating to Insurance, ^{in Mysore} it is proposed to follow the British Indian enactment not merely in its general principles, but ~~in~~ in its detailed arrangement and expression, wherever possible, as it is considered a matter of the first importance to have the law in Mysore a

uniform as possible with the British Indian Law, except where local circumstances demand a modification in substance. It is therefore proposed to include in one enactment both [the subjects dealing with] the insurance business and the Provident Societies, the latter being ^{placed within} ~~relegated~~ to a separate part.

The main features of the proposed legislation in regard to insurance are (1) the Registration of all concerns transacting insurance business of whatever kind in Mysore (2) ^{Requirement} ~~Requir~~ment of an initial deposit and a sufficient working capital with a view to eliminate companies which are ~~in-~~adequately financed; (3) full disclosure of the information required to ensure sound principles of finance and management; (4) restrictions in regard to investment of the funds of the insurance companies; (5) protection of policy holders from ^{of} ~~evadion~~/payment of moneys due under a policy on technical grounds; (6) prohibition of employment of Managing Agents in future and the early termination ^{existing} of Managing Agencies. ^{it is proposed to prohibit}

In regard to Provident Insurance Societies, the business on the dividing principle ~~is proposed to be prohibited~~. A minimum working capital will be required and the principle of deposit applied ~~to them~~. All schemes of insurance operated by a society ^{will} ~~should~~ be subjected to actuarial examination, and periodical actuarial investigation ^{must} ~~will~~ be made into the financial condition of the societies ^{will be required}. ^{Separate} classes of business must be brought separately to account and a separate fund maintained in connection with ^{each} ~~a~~ particular group of contingencies. Assets will be further protected by a provision requiring the investment in Government securities of a certain percentage of the total ~~assets~~.

THE MYSORE REPRESENTATIVE ASSEMBLY.

DASARA SESSION—OCTOBER, 1937.

STATEMENT OF GOVERNMENT BUSINESS TO BE PLACED BEFORE THE REPRESENTATIVE ASSEMBLY.

VI. Statement of General Principles of the Bill for the Control of Insurance Business in the State.

There is at present no legislation exclusively applicable to insurance companies carrying on business in Mysore, and they are governed by the provisions of the Mysore Companies Regulation. The control of the insurance business under the law relating to ordinary companies being admittedly unsatisfactory, the introduction of separate legislation to protect the interests of the insuring public has been under the consideration of the Government for some considerable time. Representations have also been received from time to time from public bodies and individuals suggesting early action on the lines of the British Indian enactments.

The law relating to insurance in British India is contained in Act V of 1912, which regulates Provident Insurance Societies, Act VI of 1912, which regulates Life Assurance Companies, and Act XX of 1928, which amended the latter in certain respects. This law was considered unsatisfactory and the Government of India attempted a comprehensive amendment of it in their Bill published with notification dated 17th June 1925. This Bill, however, made no progress as the English law on which it had been based had itself been taken up for revision. The Committee appointed by the Board of Trade in England to make suggestions for improving the law completed its enquiry in 1927, but as this was not followed up by any legislation, the Government of India decided to proceed with the reform of insurance law. A Bill embodying the Government proposals was introduced in the Indian Legislative Assembly in the early part of this year and has since been passed by that body.

In the framing of a Bill relating to insurance in Mysore, it is proposed to follow the British Indian enactment not merely in its general principles, but in its detailed arrangement and expression, wherever possible, as it is considered a matter of importance to have the law in Mysore as uniform as possible with the British Indian law, except where local circumstances demand a modification in substance. It is therefore proposed to include in one enactment both the insurance business and Provident Insurance Societies, the latter being dealt with in a separate part.

The main features of the proposed legislation in regard to insurance are (1) the registration of all concerns transacting insurance business of whatever kind in Mysore; (2) requirement of an initial deposit and a sufficient working capital with a view to eliminate companies which are inadequately financed; (3) full disclosure of the information required to ensure sound principles of finance and management; (4) restrictions in regard to investment of the funds of insurance companies; (5) protection of policy-holders from evasion of payment of moneys due under a policy on technical grounds; (6) prohibition of employment of Managing Agents in future and the early termination of existing Managing Agencies.

In regard to Provident Insurance Societies, it is proposed to prohibit business on the dividing principle. A minimum working capital will be required and the principle of deposit applied. All schemes of insurance operated by a society will be subjected to actuarial examination, and periodical actuarial investigation into the financial condition of the societies will be required. Separate classes of business must be brought separately to account and a separate fund maintained in connection with each particular group of contingencies. Assets will be further protected by a provision requiring the investment in Government securities of a certain percentage of the total.

L. A. BILL No. 4 OF 1937.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words underlined or side-lined indicate the amendments suggested by the Committee. Omissions are indicated by asterisks.]

A Bill to regulate and control the business of insurance. provide for the better insurance business in the State

regulate and the better control of insurance business in hydre-

WHEREAS it is expedient to consolidate and amend the law relating to the business of insurance It is hereby enacted as follows :-

PART I.

PRELIMINARY.

1. (1) This Act may be called the Insurance Act, 1937. Short title, extent and commencement.

(2) It extends to the whole of British India, *

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. In this Act, unless there is anything repugnant to the subject or context, -

(1a) "policy holder" includes the person who is the absolute assignee of the benefits

(1) "actuary" means an actuary possessing such qualifications as may be prescribed *

(2) "approved securities" means Government securities, and any other security charged on the revenues of the Central Government or of a Provincial Government, or guaranteed by the Secretary of State in Council or the Secretary of State or the Central Government or a Provincial Government; and any debenture or other security for money issued under the authority of any Act of a Legislature established in British India by or on behalf of a port trust or city improvement trust in any Presidency-town, or by or on behalf of the trustees of the port of Karachi;

"Approved securities" means Government securities and debentures issued by District Boards and guaranteed by the Government and any other security specifically declared by the Government as approved for this purpose.

"auditor" means a person qualified under the provisions of section 144 of the Indian Companies Act, 1913, to act as an auditor of companies;

"certified" in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer means certified by a principal officer of the insurer to be a true copy or a correct translation, as the case may be;

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;

"Government securities" means Government securities as defined in the Indian Securities Act, 1920; Regulation 1925;

"insurance company" means any insurer being a company, association or partnership which may be wound up under the Indian Companies Act, 1913, or to which the Indian Partnership Act, 1932, applies; Regulation

already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile Indian nationals are debarred by the law or practice of the country from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of section 53 is not satisfied.

(4) In the case of any insurer * * * the Superintendent of Insurance shall cancel a registration already made if the insurer fails to comply with the provisions of section 54 as to deposits.

(5) When the Superintendent of Insurance withdraws or cancels any registration under sub-section (3) or sub-section (4) he shall give notice in writing to the insurer of his decision, and the decision shall take effect on such date as he may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.

3A. No non-Indian insurer, shall be registered unless as a condition of the grant of registration the insurer undertakes that he will, when re-insuring any contract of insurance effected by him in the course of insurance business other than life insurance business transacted by him in British India (whether the policy relating to the contract is or is not issued in India), re-insure with an Indian insurer to the extent of one-tenth of the total amount insured under any such contract, unless he has obtained from the Superintendent of Insurance a certificate that such re-insurance cannot be safely effected with an Indian insurer.

See Flag A.

(1) An insurer shall not be registered by a name identical with that by which an insurer in existence is already registered, or so nearly resembling that name as to be calculated to deceive except when the insurer in existence is in the course of being dissolved and signifies his consent to the Superintendent of Insurance.

(2) If an insurer, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer in existence is previously registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned insurer may with the sanction of the Superintendent of Insurance change his name.

or commences

6. No insurer who commenced carrying on the business of life insurance in British India, whether solely or in common with any other business, after the 31st day of December, 1930, shall be registered unless he has * * * as working capital a net sum of not less than fifty thousand rupees exclusive of the deposits to be made under this Act, and exclusive in the case of a company of any sums payable as preliminary expenses in the formation of the company.

7. (1) Every insurer not being an insurer specified in sub-clause (c) of clause (8) of section 2 shall, in respect of the insurance business carried on by him in British India, deposit and keep deposited with the Reserve Bank of India in one of the offices in India of the Bank for and on behalf of the Central Government cash, or approved securities, estimated at the market value of the securities on the day of deposit, of the amount hereafter specified, namely:—

(a) where the business done or to be done is life insurance only, two hundred thousand rupees.

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(3) In the case of any insurer having his principal place of business or domicile outside Mysore, the Superintendent of Insurance shall withhold registration or shall cancel a registration already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile, companies incorporated in Mysore are debarred ~~from~~ by the law or practice of the country relating to insurance from carrying on the business of insurance, or that any requirements imposed on such insurer under the provisions of section 62 is not satisfied.

Restriction on
issue of
insurance
policies by
insurers.

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4 No insurer, not being a provident society to which Part III applies or a cooperative life insurance society to which Part IV of this Regulation applies, shall pay or undertake to pay on any policy of insurance issued after the commencement of this Regulation an annuity of Rs. 50 or less or a gross sum of Rs. 500 or less, exclusive of any profit or bonus, provided that this shall not prevent the insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount;

Provided, however, nothing contained in this section shall apply to group policies that is to say, policies in respect of a group of persons engaged in the same occupation or kindred occupations under a single employer.

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(2) . If an insurer through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer already in existence whether previously registered or not is carrying on business or so nearly resembling it as to be calculated to deceive the first mentioned insurer shall on the application of the second mentioned insurer and if called upon to do so by the Superintendent of Insurance change his name within a time to be fixed by the Superintendent of Insurance.

(3) No insurer other than a provident society to which Part III applies, who begins to carry on insurance business after the commencement of this Regulation, shall adopt as its name and no such insurer carrying on business before the commencement of this Regulation shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words, which include the word 'provident'.

- (b) where the business done or to be done is fire insurance only, one hundred and fifty thousand rupees ;
- (c) where the business done or to be done is marine insurance only, one hundred and fifty thousand rupees ;
- (c) ~~(d)~~ where the business done or to be done is accident and miscellaneous insurance including workmen's compensation, and motor car insurance, one hundred and fifty thousand rupees ;
- ~~(d)~~ where the business done or to be done includes life insurance and any one of the ~~three~~ classes specified in clauses (b), ~~(c)~~ and ~~(d)~~, three hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business ;
- ~~(e)~~ where the business done or to be done includes life insurance and ~~any two of the three~~ classes specified in clauses (b), ~~(c)~~ and ~~(d)~~, four hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business ;
- where the business done or to be done includes life insurance and all three classes specified in clauses (b), (c) and (d), four hundred and fifty thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business ;
- where the business done or to be done does not include life insurance but includes ~~any two of~~ the classes specified in clauses (b), ~~(c)~~ and ~~(d)~~, two hundred and fifty thousand rupees ; and
- where the business done or to be done does not include life insurance but includes all three classes specified in clauses (b), (c) and (d), three hundred and fifty thousand rupees.
- ~~(2)~~ Where the insurer is an insurer specified in sub-clause (c) of clause (8) of section 2, he shall be deemed to have complied with the provisions of this section as to deposits, if in respect of any class of insurance business transacted by him in British India under a standing contract of the nature referred to in sub-clause (c) of clause (8) of section 2 a deposit of an amount one-and-a-half times that specified in sub-section (1) as the deposit for that class of insurance business has been made by or on behalf of the underwriters who are members of the Society of Lloyd's or other association of underwriters with whom he has his standing contract.
- ~~(2)~~ ~~(2)~~ Where the deposit is to be made by an insurer incorporated before, or carrying on any insurance business except life insurance business in British India before, the 1st day of January, 1937, in respect of any class of business carried on by him at that date, the deposit referred to in sub-section (1) may be made in instalments of not less than one-fourth the total amount before the application for registration is made, not less than one-half the balance before the 1st day of January, 1939, and the balance before the 1st day of January, 1940.
- ~~(2)~~ ~~(2)~~ Where the deposit is to be made ~~in respect of life insurance business~~ by an insurer incorporated before, or carrying on the business of ~~life~~ insurance in British India before, the 1st day of January, 1937, the deposit referred to in sub-section (1) may be made in not more than seven instalments, of which the first shall be not less than one-fourth of the total amount of the

deposit and shall be paid before the application for registration is made, the second shall be not less than one-sixth of the balance of the deposit and shall be paid before the 1st day of January, 1939, and the subsequent instalments shall be of not less than the same amount as the second instalment and shall be paid before the 1st day of January of each succeeding year.

(5) Notwithstanding anything contained in sub-section (3) or (4), in the case of an insurer not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2, the deposit referred to in sub-section (1) shall be made in two instalments of which the first shall be not less than one-half of the total amount of the deposit and shall be made before the application for registration is made, and the second shall be made before the expiry of one year from the date of registration.

(6) Where the deposit is to be made by an insurer incorporated after, or commencing business in British India after, the 31st day of December, 1937, the deposit may be made in instalments of not less than ^{one-fourth} ~~one-half~~ the total amount before the application for registration is made, not less than ~~one-half~~ the balance before the expiry of one year from the commencement of business in British India, and the balance before the expiry of ~~two years~~ from the commencement of business in British India. *higher*

Provided that in the case of any insurer not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2 the deposit shall be made in full before the application for registration is made.

(7) ~~(7)~~ No class of insurance business in addition to the class or classes in respect of which an insurer is already liable to make a deposit under sub-section (1) shall be undertaken by the insurer until the deposit to which he is already liable has been made in full, and the additional deposit required in respect of the additional class of business or so much thereof as under the provisions of sub-section (2), (4), (5) or (6) is to be made before the application for registration has also been made in full.

(8) Securities already deposited with the Controller of Currency in compliance with the Indian Life Assurance Companies Act, 1912, shall be transferred by him to the Reserve Bank of India and shall, to the extent of their market value on the day of the first deposit made in compliance with this Act, be deemed to be deposited under this Act in respect of the life insurance business of the insurer.

(9) ~~(9)~~ A deposit made in cash shall be held by the Reserve Bank of India to the credit of the insurer and shall be returnable to the insurer in cash in any case in which under the provisions of this Act a deposit is to be returned; and any interest accruing due on securities deposited under sub-section (1) shall be paid to the insurer, subject only to deduction of the normal commission chargeable for the realization of interest.

(10) ~~(10)~~ The insurer may at any time, and if the Reserve Bank of India requires him to replace securities maturing for repayment shall, substitute for securities lodged with the Bank under this section other approved securities of equal value at the market rate prevailing at the time of substitution *or the face value which*

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- ~~7. (2)~~
(6) (97) A deposit made in cash shall be invested in Government Savings deposits by the beneficiary, and shall be returnable to the insurer in cash in any case in which under the provisions of the Regulation a deposit is to be returned, and any interest accruing due on securities deposited under rule - Section (1), or on savings deposits in which a deposit made in cash has been invested, shall be paid to the insurer, subject only to deduction of the normal commission chargeable for the realization of interest.

*deposit such
deducted from in
cash or approved
securities as will
make up the
amount so used.
The insurer
shall*

(8) ~~(11)~~ If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied by the deposit of further securities within a period of two months *from the date when*

8 ~~(1)~~ Any deposit made under section 2 shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge; nor shall it be available for the discharge of any liability of the insurer other than liabilities * * * arising out of * policies of insurance so long as any such liabilities remain undischarged; nor shall it be liable to attachment in execution of any decree except a decree obtained * * * in respect of a * * * policy issued by the insurer. *such policies*

(2) Where a deposit is made in respect of * * * life insurance business * * * the deposit made in respect thereof shall not be available for the discharge of any liability of the insurer other than liabilities arising out of policies of life insurance *issued by the insurer*

9 ~~8~~ Where an insurer has ceased to carry on in ~~British India~~ any class of insurance business in respect of which a deposit has been made under section 2 and his liabilities in ~~British India~~ in respect of business of that class have been satisfied or are otherwise provided for, the Court may, on the application of the insurer, order the return to the insurer of so much of the deposit as does not relate to the classes of insurance, if any, which he continues to carry on. *Refund of deposits.*

~~9~~ (1) Where the insurer carries on business of more than one of the classes specified in clauses (a), (b), ~~(c)~~ and ~~(d)~~ of sub-section (1) of section 2 he shall keep a separate account of all receipts and payments in respect of each such class of insurance business. *separation of accounts and funds.*

(2) Where the insurer carries on the business of life insurance, the excess of receipts over payments in respect of such business shall be carried to and shall form a separate fund to be called the life insurance fund and the deposit made by the insurer in respect of life insurance business shall be deemed to be part of such fund.

(3) The life insurance fund shall be as absolutely the security of the life policy-holders as though it belonged to an insurer carrying on no other business than life insurance business and shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life insurance and shall not be applied directly or indirectly for any purposes other than those of life insurance.

11. ~~10~~ (1) Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in * India shall at the expiration of each calendar year prepare with reference to that year—

(a) in accordance with the regulations contained in Part I of the First Schedule, a balance-sheet in the form set forth in Part II of that Schedule;

(12) *The market value
on the day of deposit of
securities deposited*

*the deposit or any part
thereof is so used for the
discharge of liabilities.*

issued by the insurer

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- (b) in accordance with the regulations contained in Part I of the Second Schedule, a profit and loss account in the forms set forth in Part II of that Schedule, except where the insurer carries on business of one class only of the classes specified in clauses (a) & (b) and ~~(c)~~ of sub-section (1) of section 2 and no other business;
- (c) in respect of each class of insurance business carried on by him in accordance with the regulations contained in Part I of the Third Schedule a revenue account in the form or forms set forth in Part II of that Schedule applicable to that class of insurance business.

(2) Unless the insurer is a company to which the ~~Indian Companies Act, 1913~~, applies, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman and two directors and the principal officer of the company, or in the case of a firm by two partners of the firm, and shall be accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report by such persons on the affairs of the business during that period.

~~(3) Where an insurer carrying on the business of insurance at the commencement of this Act has prepared the balance-sheet and accounts required by the Indian Life Assurance Companies Act, 1912, or has based his accounts upon the financial and not the calendar year, the provisions of this section shall, if the Central Government so directs in any case, apply until the 31st day of December, 1939, as if in sub-section (1) references to the calendar year were references to the financial year.~~

41. The accounts of every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in ~~India~~, shall, unless they are subject to audit under the ~~Indian Companies Act, 1913~~, be audited annually by an auditor, and the auditor shall in the audit of ~~any~~ such accounts have the powers, ~~and~~ exercise the functions vested in and discharge the duties imposed on auditors of companies by section 145 of the ~~Indian Companies Act, 1913~~. *Regulation.*

3. 42. (1) Every insurer carrying on life insurance business shall, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2 in respect of all life insurance business transacted by him, and in the case of any other insurer in respect of the life insurance business transacted by him in ~~India~~, once at least in every five years cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations contained in Part I of the Fourth Schedule and in conformity with the requirements of Part II of that Schedule.

(2) The provisions of sub-section (1) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of the

insurer is made with a view to the distribution of profits or an investigation is made of which the results are made public.

(3) There shall be appended to every such abstract as is referred to in sub-section (1) or sub-section (2) a certificate signed by the principal officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(4) There shall be appended to every such abstract a statement, in conformity with the requirements of Part II of the Fifth Schedule and prepared in accordance with the regulations contained in Part I of that Schedule, of the life insurance business in force at the date to which the accounts of the insurer are made up for the purposes of such abstract :

Provided that, if the investigation referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every five years.

(5) Where an investigation into the financial condition of an insurer is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance-sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by this Act.

~~10.~~ Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2, in respect of all business transacted by him and in the case of any other insurer in respect of the insurance business transacted by him in India, shall maintain—

(a) a register or record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice, and

(b) a register or record of claims, in which shall be entered every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds therefor.

~~5. 11.~~ (1) The audited accounts and statements referred to in section ~~10~~ and the abstract and statement referred to in section ~~12~~ shall be printed, and four copies thereof shall be furnished as returns to the Superintendent of Insurance * * * within six months from the end of the period to which they refer :

Provided that the said period shall in the case of insurers having their principal place of business or domicile outside British India and in the case of insurers constituted, incorporated or domiciled in British India but carrying on business outside British India be extended by three months, and provided further that the Central Government may in any case extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding three months.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director, by that director* * in the case of a firm, by two partners of the firm, and, in the case of an insurer being an individual, by the insurer himself.

(3) Where the insurer's principal place of business or domicile is outside ~~British India~~, he shall, forward to the Superintendent of Insurance, along with the documents referred to in section ~~12~~, ~~the balance-sheet~~, profit and loss account and revenue account and the valuation reports and valuation statements, if any, which the insurer is required to file with the public authority of the country in which the insurer is constituted, incorporated or domiciled, or, ~~in lieu thereof~~, a certified statement showing the total assets and liabilities of the insurer at the close of the period covered by the said documents and his total income and expenditure during that period.

5 ~~15~~. (1) Where, by the law of the country in which an insurer, not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (8) of section 2, is constituted, incorporated or domiciled, the insurer is required to prepare and to furnish to a public authority of that country documents of substantially the same nature as the documents required to be furnished as returns in accordance with the provisions of section ~~14~~, the provisions of sub-section (2) of this section shall apply to such insurer in lieu of the provisions of sections ~~10, 11, 12 and 13~~ and ~~14~~ ~~15~~.

(2) The insurer shall, within the time specified in sub-section (1) of section ~~14~~, furnish to the Superintendent of Insurance four certified copies in the English language of every balance-sheet, account, abstract, report and statement supplied to the public authority referred to in sub-section (1) of this section, and, in addition thereto, four copies in the English language of each of the following statements, namely :—

- (a) a statement showing the assets held by the insurer in ~~British India~~, *
- (b) for each class of insurance business carried on by him, a revenue account in the form or forms set forth in Part II of the Third Schedule applicable to that class of business, showing separately with respect to business transacted by the insurer in ~~British India~~ the details required to be supplied in a revenue account furnished under this clause of this sub-section,
- (c) an abstract of the valuation report in respect of all life-insurance business transacted by the insurer in India, prepared in the manner required by sub-section (1) of section ~~12~~, and
- (d) a declaration in the prescribed form stating that all amounts received by the insurer directly or indirectly whether from his head office or from any other source outside India have been shown in the revenue account except such sums as appertain to the capital account.

17. ~~16.~~ Where an insurer, being a company incorporated under the Indian Companies Act, 1913, in any year furnishes his accounts and balance-sheet in accordance with the provisions of section ~~14~~, he may at the same time send to the Registrar of Companies a copy of such accounts and balance-sheet; and where such copy is so sent it shall not be necessary for the company to file a balance-sheet with the Registrar as required by sub-section (1) of section 134 of that Act and the copy of the accounts and balance-sheet so sent shall be dealt with in all respects as if they were filed in accordance with that section.

Exemption from certain provisions of the Indian Companies Act, 1913.

Regn, 19,

Regulation

Regulation

8. ~~17.~~ Every insurer shall furnish to the Superintendent of Insurance a certified copy of every report on the affairs of the concern which is submitted to the members or policy-holders of the insurer immediately after its submission to the members or policy-holders, as the case may be.

Furnishing of reports.

19. ~~18.~~ Every insurer, being a company incorporated under the Indian Companies Act, 1913, shall furnish to the Superintendent of Insurance an abstract of the proceedings of every general meeting of the company within thirty days from the holding of the meeting to which it relates.

Abstract of proceedings of general meetings.

Regulation

20. ~~19.~~ (1) Every return furnished to the Superintendent of Insurance or a certified copy thereof shall be kept by the Superintendent and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied.

Custody and inspection of documents, and supply of copies.

(2) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of section ~~14~~ or section ~~15~~ shall, on the application of any shareholder or policy-holder made at any time, within two years from the date on which the document was so furnished, be supplied to him by the insurer within fourteen days when the insurer is constituted, incorporated or domiciled in British India and in any other case within one month of such application.

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Insure

(3) A copy of the memorandum and articles of association of the insurer if a company shall on the application of any policy-holder be supplied to him by the insurer on payment of one rupee.

1. ~~20.~~ (1) If it appears to the Superintendent of Insurance that any return furnished to him under the provisions of this Act is inaccurate or defective in any respect, he may—

Powers of Superintendent of Insurance regarding returns.

(a) require from the insurer such further information, certified if he so directs by an auditor or actuary, as he may consider necessary to correct or supplement such return; or

~~(b) call upon the insurer to submit for his examination any book of account, register or document or to supply any statement; or~~

(c) require any officer of the insurer to give evidence before him on oath; or

(d) decline to accept any such return unless the inaccuracy has been corrected or the deficiency has been supplied before the expiry of one month from the date on which ~~it was furnished~~;

regulation asking for correction or supply of deficiency was delivered to the insurer

(b) call upon the insurer for his examination at the principal place of business of the insurer in British India any book of account, register or other document or to supply any statement which he may specify in a notice served on the insurer for the purpose; or

15 and if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section ~~24~~ or section ~~25~~ relating to the 16 furnishing of returns.

(2) The Court may on the application of an insurer cancel any order made by the Superintendent under clause (a), (b) or (c) of sub-section (1) or may direct the acceptance of any return which the Superintendent has declined to accept, if the insurer satisfies the Court that the action of the Superintendent was in the circumstances unreasonable. *and after hearing the Superintendent*

Power of Superintendent of Insurance to order re-valuation.

22-21. If it appears to the Superintendent of Insurance that an investigation or valuation to which section ~~22~~ 13 refers does not properly indicate the condition of the affairs of the insurer by reason of the faulty basis adopted in the valuation, he may, after giving notice to the insurer and giving him an opportunity to be heard, cause an investigation and valuation to be made at the expense of the insurer by an actuary appointed by himself. *The insurer for this purpose and approved of the Superintendent*

(Amendment made (the number))

documents.

23-22. (1) Every return furnished to the Superintendent of Insurance, which has been certified by the Superintendent to be a return so furnished, shall be deemed to be a return so furnished.

(2) Every document, purporting to be certified by the Superintendent of Insurance to be a copy of a return so furnished, shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

24-23. The ~~Central~~ Government shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished to the Superintendent of Insurance for the year preceding the year of publication and may append to such summary any note of the ~~Central~~ Government and any correspondence in relation thereto.

25-24. No insurer shall publish in ~~British India~~ any return in a form other than that in which it has been furnished to the Superintendent of Insurance.

26-25. Whenever any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (2) of section 3 to accompany an application by an insurer for registration, the insurer shall forthwith furnish to the Superintendent of Insurance full particulars of such alteration.

27. INVESTMENT, LOANS AND MANAGEMENT

28-26. (1) Every insurer carrying on the business of life insurance in British India shall, in respect of the life insurance business transacted by him in India, keep in British India invested in securities of or guaranteed by the Central Government or of or guaranteed by the Government of the United Kingdom, assets of an amount at least equal to the liabilities of the insurer to policy holders in India, such liabilities to include matured claims and reserves for outstanding policies less any amounts advanced by the insurer against such policies.

(2) None of the assets in ~~British India~~ of any insurer * * shall be kept otherwise than in the

provision that nothing contained in this section shall prevent an insurer from publishing a true and accurate abstract from such returns for the purpose of publication

For inspection 27 to 31 1937

Serial
No.Investment
of
assetsclaims on policies
of life insurance

27. (1) Every insurer incorporated or domiciled in Mysore shall at all times invest and hold invested assets equivalent to fifty-five per cent. of the sum of the amount of his liabilities to holders of life insurance policies in Mysore ^{on account of matured} on account of matured and the amount of the reserve necessary to meet outstanding claims on policies of life insurance ^{and outside} maturing for payment in Mysore, less the amount of any deposit made under section 7 by the insurer in respect of his life insurance business and less any amount due to the insurer for loans granted by him on policies of life insurance, in the manner following namely, twenty-five per cent. of the said sum in Government securities and a further sum equal to not less than thirty per cent. of the said sum in Government securities or other approved securities.

(2) An insurer incorporated or domiciled elsewhere than in Mysore, shall at all times invest and hold invested assets equivalent to the sum of his liabilities to holders of life insurance policies in Mysore on account of matured claims and the

amount of the reserve necessary to meet
outstanding claims on policies of life insurance
maturing for payment ^{and to} ~~in~~ ^{therefore}, less the
amount of any deposit made under Section 7
by the insurer in respect of his life insurance
business and less any amount due to the
insurer on loans granted by him on policies
of life insurance in the manner following,
namely, as to $33\frac{1}{3}\%$ per cent. thereof in
Government securities, and as to the balance
in Government securities or other
approved securities, ~~or securities of or~~
~~guaranteed as to principal and interest by~~
~~the Government of India.~~

(3) An insurer carrying on business
at the time of commencement of the
Regulation to whom sub-section (1) or
sub-section (2) applies shall before the
expiry of four years from the commencement
of this Regulation invest the total amount
required to be invested by those sub-sections
in the manner required thereby.

Provided that of such total amount
the insurer shall have invested not less
than one-half before the expiry of two

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years, and not less than three - further before the
expiry of three years from the commencement of
this Regulation

(4) The assets required by this section to be
held by an insurer to whom sub-section (2)
applies shall be invested in trustees resident
in Mysore and approved by the Government
by an instrument of trust which shall be
executed by the insurer and approved by the
Government and shall define the manner
in which alone the subject matter of trust
shall be dealt with.

~~(Section 27 of the Public Insurance Act
is added in extenso on the following
pages, for purpose of reference)~~

Serial
No.

~~R Statement~~
of Investment Statements
to be submitted
to the Superintendent of
Insurance.

28(1) Every insurer registered under this Regulation carrying on the business of life insurance, not being a provident society, shall twice in every year, namely, on or before the 30th day of June and on or before the 31st day of December, submit to the Superintendent of Insurance a statement showing the investments made in accordance with section 27 and such statement shall be certified by the principal officer of the insurer.

(2) The Superintendent of Insurance shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets invested in compliance with section 27 and the insurer shall comply with all requisitions made by the Superintendent in that behalf.

Serial
No.Restrictions on
loans

29 No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security, except loans on life policies issued by him within their surrender value, to any Director, Manager, Managing Agent, Actuary, Auditor or Officer of the insurer, if a company, or where the insurer is a firm, to any partner therein, or to any other company or firm in which any such Director, Manager, Managing Agent, Actuary, Officer or partner holds the position of a Director, Manager, Managing Agent, Actuary, Officer or partner, provided that nothing herein contained shall apply to loans made by an insurer to a Banking company;

provided that every existing loan to any Director, Manager, Managing Agent, Actuary, Auditor or Officer, notwithstanding any contract to the contrary, be repaid within one year from the date of commencement of this Regulation, and in case of default, such defaulting Director, Manager, Managing Agent, Actuary, Auditor or Officer shall cease

Serial
No.Assets to be
Kept in the
name of
insurer

31 None of the assets in Mysore of any insurer shall, except in so far as they are required to be vested in trustees by sub-section (4) of section 27 be kept otherwise than in the corporate name of the undertaking, if a company, or in the name of the partners, if a firm, or in the name of the proprietor, if an individual.

—

corporate name of the undertaking, if a company, or in the name of the firm, except where they are kept in the name of a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, or trustees approved by the board of directors of the company, or by the partners of the firm.

(3) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security, except loans on life policies issued by him within their surrender value, to any director, manager, managing agent, auditor or officer of the insurer when a company, or when the insurer is a firm to any partner therein, or to any other company or firm in which any such director, manager, managing agent, officer or partner holds the position of director, manager, managing agent, officer or partner.

(4) In the event of any contravention of any of the provisions of this section, * * * if any loss is sustained by the insurer in consequence of the contravention every director, manager, managing agent, officer or partner shall be jointly and severally liable for the amount of such loss.

(5) The provisions of sub-section (1) shall not take effect until the expiry of one year from the commencement of this Act.

~~27. (1) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913, No insurer who carries on the business of life insurance, whether alone or in conjunction with any other class of insurance business, shall, after the expiry of ten years from the commencement of this Act, appoint or employ a managing agent for the conduct of his business.~~ Limit
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(2) Where, at the expiry of ten years from the commencement of this Act, any insurer who carries on the business of life insurance, whether alone or in conjunction with any other class of insurance business, employs a managing agent for the conduct of his business, then, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913, and notwithstanding anything to the contrary contained in any agreement entered into by the insurer or in the articles of association of the insurer, if a company, (such managing agent shall cease forthwith to hold office and no compensation shall be payable to him by the insurer by reason only of the premature termination of his employment as man

After the commencement of this Act, notwithstanding anything contained in the Indian Companies Act, 1913, and notwithstanding anything to the contrary contained in any agreement entered into by an insurer or in the articles of association of an insurer being a company, no insurer shall pay to a managing agent and no managing agent shall accept from an insurer as remuneration for his services as managing agent more than one thousand rupees per month by way of salary or more than one thousand rupees per month by way of allowances or commission of any kind, if in addition to salary, and the total remuneration payable to, and receivable by a managing agent for his services as managing agent shall not however constituted exceed the sum of two thousand rupees per month.

INSPECTION.

~~28. (1) If the Superintendent of Insurance has~~ Power
Super
to ord
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reason to believe that the interests of the policy-holders

Regulation

of an insurer are in danger or that an insurer is unable to meet his obligations or has made default in complying with any of the provisions of this Act or that an offence under this Act has been or is likely to be committed by an insurer or any officer of an insurer, or if he receives a requisition in this behalf signed by shareholders of an insurer being a company not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or if he receives a requisition in this behalf signed by not less than fifty policy-holders holding policies that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees and supported by an affidavit he may, after giving notice to the insurer and giving him an opportunity to be heard, appoint an auditor or actuary or both, not being an auditor or actuary in the employ of the insurer, to investigate the affairs of the insurer or may himself make such investigation.

(2) The Court may on the application of an insurer forbid such action by the Superintendent if the insurer satisfies the Court that it is unnecessary in the circumstances, *after giving notice to and hearing*

(3) The results of any inspection made under this section shall be embodied in a report of which one copy shall be lodged with the Superintendent of Insurance and one copy shall be furnished to the insurer *and a*

(4) The Superintendent of Insurance may require the insurer to comply within a time to be specified by him (not being less than fifteen days from the receipt of the notice by the insurer) with any directions he may issue to remedy defects disclosed by such inspection.

(5) If, as a result of any inspection made under this section, the Superintendent of Insurance is of opinion that it is necessary in the interests of the policy-holders that the business of the insurer should be wound up, or if the insurer fails to comply with any directions issued under sub-section (4), the Superintendent may, after giving notice to the insurer and giving him an opportunity to be heard, apply to the Court to have the business of the insurer wound up.

* * * * *

~~2233~~ 2233. When any investigation is made in pursuance of section 2233, the provisions of section 146 of the Indian Companies Act, 1913, shall apply for the purposes of such investigation as they apply to an investigation made in pursuance of section 138 of that Act, and all expenses of and incidental to such investigation shall be defrayed by the insurer.

AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS.

~~238~~ 35. (1) No life insurance business of an insurer specified in sub-clause (a), (i) or sub-clause (b) of clause (8) of section 2 shall be transferred to or amalgamated with the life insurance business of any other insurer except in accordance with a scheme prepared under this section and sanctioned by the Court having jurisdiction over one or other of the insurers concerned.

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall

contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Court to sanction any such scheme notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor shall, at least two months before the application is made, be sent to the Central Government and unless the Court for special reasons otherwise directs to every person resident in British India or in an Indian State who is the holder of a life policy of any insurer concerned and certified copies of the following documents shall be furnished to the Central Government and shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices and chief agencies of the insurers concerned, namely :—

- (a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer ;
- (b) * * statements of the assets and liabilities of the insurers concerned in such amalgamation or transfer ; and
- (c) * * the actuarial or other reports on which the scheme was founded including a report by an independent actuary on the proposed amalgamation or transfer.

~~31.~~ When any application such as is referred to in sub-section (3) of section ~~30~~ is made to the Court, the Court shall cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct and, after hearing the directors and such policy-holders as apply to be heard and any other persons whom it considers entitled to be heard, may sanction the arrangement, if it is satisfied that no sufficient objection to the arrangement has been established.

~~32.~~ Where an amalgamation takes place between any two or more insurers, or where any business of one insurer is transferred to another, whether in accordance with a scheme confirmed by the Court or otherwise, the insurer carrying on the amalgamated business or the insurer to whom the business is transferred, as the case may be, shall, within three months from the date of the completion of the amalgamation or transfer, furnish to the Central Government—

- (a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected, and
- (b) a declaration signed by every insurer concerned or in the case of a company by the chairman and the principal officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer, and

(c) where the amalgamation or transfer has not been made in accordance with a scheme confirmed by the Court—

(i) certified copies of statements of the assets and liabilities of the insurers concerned, and

(ii) certified copies of the actuarial or other reports upon which the agreement or deed was founded.

ASSIGNMENT OR TRANSFER OF POLICIES—AND—
NOMINATIONS.

33. (1) A transfer or assignment of a policy of life insurance, whether with or without consideration, may be made only by an endorsement either upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

(2) The transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but shall not be operative as against an insurer and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment has been delivered to the insurer at his principal place of business ~~in India~~ *in England, 6/30*

(3) The date on which the notice referred to in sub-section (2) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment.

(4) Upon the receipt of the notice referred to in sub-section (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of a fee not exceeding one rupee, grant a written acknowledgment of the receipt of such notice; and any such acknowledgment shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(5) From the date of the receipt of the notice referred to in sub-section (2) the insurer shall recognise the transferee or assignee as the only person entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the ~~policy-holder~~ was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

(6) The rights and remedies of the transferee of a policy of life insurance existing prior to the commencement of this Act shall not be affected by the provisions of this section.

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the interest shall pass to some other person on the happening of a specified event during the life of the policy-holder, and an assignment in favour

of the survivor or survivors of a number of persons, shall be valid.

39 ~~34~~. (1) The holder of a policy of life insurance may, ^{Nomination by policy-holder.} when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement, *as the case may be.* *dra vice,*

(3) The insurer may charge a fee not exceeding one rupee for registering any such endorsement and shall furnish to the policy-holder a written acknowledgment of having done so.

(4) A transfer or assignment of a policy made in accordance with section ~~33~~ shall automatically cancel a nomination. *38*

(5) Where the policy matures for payment during the lifetime of the policy-holder or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee or, if there are more nominees than one, a nominee or nominees survive the policy-holder, the amount secured by the policy shall be payable to such survivor or survivors.

(7) ~~The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, applies.~~ 1874.

COMMISSION AND REBATES AND LICENSING OF AGENTS.

~~35~~ No insurer shall after the expiry of three months from the commencement of this Act pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in or for collecting insurance premiums in British India to any person except an insurance agent licensed under section 37. ^{Prohibition of payment by way of commission or otherwise for procuring business.}

~~36~~ (1) No insurer, and no insurance agent acting on behalf of an insurer, shall allow or offer to allow either directly or indirectly as an inducement to any person to take out or renew a policy of insurance any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy nor shall any person taking out or renewing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer. ^{Prohibition of rebates.}

(2) If default is made in complying with the provisions of this section * * * * * by an insurance agent he shall be punishable with fine which may extend to one hundred rupees and if by a person taking out or renewing a policy he shall be punishable with fine which may extend to fifty rupees.

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42*

Licensing of
insurance
agents.

37. (1) The Superintendent of Insurance may, in the prescribed manner and on payment of the prescribed fee which shall not be more than three rupees, issue to any individual making an application under this section a licence to act as an insurance agent for the purpose of soliciting or procuring insurance business and collecting insurance premiums.

(2) An application under this section shall be countersigned by at least one insurer registered under this Act.

(3) A licence issued under this section shall entitle the holder to act as an insurance agent for any registered insurer by whom he may be employed.

(4) A licence issued under this section shall expire on the 31st day of March in each year, but may be renewed from year to year on payment of the prescribed fee which shall not be more than three rupees.

(5) If it is found by any civil or criminal Court of competent jurisdiction that an insurance agent—

(a) has been guilty of criminal misappropriation, or criminal breach of trust, or cheating, or

(b) has knowingly contravened any provision of this Act,

then, without prejudice to any other penalty to which he may be liable, the Superintendent of Insurance shall in the case specified in clause (a) and may in the case specified in clause (b) cancel the licence issued to him under this section

38. (1) Every insurer shall maintain a register showing the name and address of every licensed insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.

(2) Any individual not holding a licence issued under section 37 who acts as an insurance agent for any insurer shall be punishable with fine which may extend to fifty rupees and any insurer who knowingly appoints as an insurance agent any individual not so licensed or transacts any insurance business through any such individual shall be punishable with fine which may extend to one hundred rupees.

(3) The provisions of sub-section (2) shall not take effect until the expiry of six months from the commencement of this Act.

SPECIAL PROVISIONS OF LAW.

45. No policy of insurance shall, after the expiry of two years from the date on which it was effected, be called in question by an insurer on the ground that a statement made in the proposal for insurance or in any report of a medical officer, or referee, or friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false unless the insurer shows that such statement was on a material matter and fraudulently made by the policy-holder and that the policy-holder knew at the time of making it that the statement was false.

46. The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in British India after the commencement of this Act shall have the right, notwithstanding anything to the

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and every
person acting on
behalf of an insurer
who, for the purposes of
insurance business
employ licensed
agent
or any person
acting on behalf
of an insurer

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Prohibition of
payment by way
of commission
or otherwise for
procuring
business

40 (1) No person shall after the expiry of six months from the commencement of this Regulation pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in ~~India~~ Mysore to any person except an insurance agent licensed under section 42 or a person acting on behalf of an insurer who for the purposes of insurance business, employs licensed insurance agents

(2) No insurance agent licensed under section 42 shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding in the case of life insurance business forty per cent. of the first year's premium payable on any policy or policies effected through him and five per cent. of renewal premium, or in case of business of any other class fifteen per cent. of premium

Provided That insurers in respect

of life insurance business only may pay during the first ten years of their business to their insurance agents fifty five per cent of the first year's premium payable on any policy or policies effected through them and six per cent of renewal premiums.

(3) Nothing in this section shall prevent payment under any contract existing prior to 1st day of January, 1938 of gratuity or renewal commission to an insurance agent or to his representatives after his decease in respect of insurance business effected through him before the said date

41 (1) ~~No insurer, no employer of an insurance agent, licensed under section 42 and no insurance agent acting on behalf of an insurer or and no person acting on behalf of an insurer who, for the purpose of insurance business, employs licensed insured agent, shall allow or offer~~

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of rebateSerial
No.

41(1)

No insurer no employer of an insurance agent licensed under section 42, ~~no person acting on behalf of an insurer who, for the purpose of insurance business employs licensed insurance agents~~ and no insurance agent acting on behalf of an insurer, shall allow or offer to allow either directly or indirectly as an inducement to any person to effect or renew an insurance in respect of any kind of risk relating to lives or property in India any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy nor shall any person taking out or renewing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.

(2) If default is made in complying with the provisions of this section by an insurance agent ^{licensed under section 42} he shall be ~~punishable~~ with fine or by a

person acting on behalf of an insurer who, for the purposes of insurance business, employs licensed insurance agents, he shall be punishable with fine which may extend to one hundred rupees and if by a person effecting or renewing an insurance, he shall be punishable with fine which may extend to fifty rupees.

42. (1) The Superintendent of Insurance shall, in the prescribed manner and on payment of the prescribed fee which shall not be more than one rupee issue to any individual making an application under this section and not suffering from any of the disqualifications hereinafter mentioned license to act as an insurance agent for the purpose of soliciting or procuring insurance business.

(2) A license issued under this section shall entitle the holder to act as an insurance agent for any registered insurer.

(3) A license issued under this section shall expire on the 30th of June in each year, but if the applicant does not suffer from any such disqualifications be renewed from year to year on payment of a fee of one rupee.

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~~3844~~
[42(4)]
- (4) The disqualifications above referred to shall be the following
- (a) That the person is a minor;
 - (b) That he is found to be of unsound mind by a court of competent jurisdiction;
 - (c) That he has been found guilty of criminal misappropriation or criminal breach of trust, or cheating by a court of competent jurisdiction;
 - (d) That in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it shall appear that he has been found guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against the insurer or the assured.
- 7) If it be found that an insurance agent suffers from any of the foregoing disqualifications, without prejudice to any other penalties to which he may be liable, the Superintendent of Insurance shall and if the agent has knowingly contravened any

Payment of
commission on
renewal premium.

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No.

444 Notwithstanding anything to the contrary in a contract between an insurer or a person acting on behalf of an insurer and an insurance agent licensed under Section 42 of the Regulation, forfeiting or stopping payment of renewal commission, no insurer carrying on the business of life insurance in Mysore shall repay payments of commission on renewal premia due to an insurance agent under the agreement between them by reason only of the termination of his agreement, except for fraud, provided such agent has served the insurer or the person acting on behalf of the insurer continuously and exclusively for at least ten years and provided further that after his ceasing to act as agent he does not directly or indirectly solicit or procure insurance business for any other insurer.

contrary contained in the policy or in any agreement relating thereto, to receive payment in ~~British India~~ of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in ~~British India~~; and if the suit is brought in ~~British India~~ any question of law arising in connection with any such policy shall be determined according to the law in force in ~~British India~~.

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47 48 (1) Where in respect of any policy of life insurance maturing for payment an insurer is of opinion that by reason of conflicting claims to or insufficiency of proof of title to the amount secured thereby or for any other adequate reason it is impossible otherwise for the insurer to obtain a satisfactory discharge for the payment of such amount, the insurer shall before the expiry of nine months from the date of the maturing of the policy apply to pay the amount into the * Court within the jurisdiction of which is situated the place at which such amount is payable under the terms of the policy or otherwise.

(2) A receipt granted by the Court for any such payment shall be a satisfactory discharge to the insurer for the payment of such amount.

(3) An application for permission to make a payment into Court under this section shall be made by a petition verified by an affidavit signed by a principal officer of the insurer setting forth the following particulars, namely:—

- (a) the name of the insured person and his address;
- (b) if the insured person is deceased, the date and place of his death;
- (c) the nature of the policy and the amount secured by it;
- (d) the name and address of each claimant so far as is known to the insurer with details of every notice of claim received;
- (e) the reasons why in the opinion of the insurer a satisfactory discharge cannot be obtained for the payment of the amount; and
- (f) the address at which the insurer may be served with notice of any proceeding relating to disposal of the amount paid into Court.

4) An application under this section shall not be entertained by the Court if the application is made before the expiry of six months from the death of the insured, or the maturing of the policy by survival.

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(5) If it appears to the Court that a satisfactory discharge for the payment of the amount cannot otherwise be obtained by the insurer it shall allow the amount to be paid into Court and shall invest the amount in Government securities pending its disposal.

(6) The insurer shall transmit to the Court every notice of claim received after the making of the application under sub-section (3) and * * * any payment required by the Court as costs of the proceedings or otherwise in connection with the disposal of the amount paid into Court shall as to the costs of the application under sub-section (3) be borne by the insurer and as to any other costs be deducted from the amount paid into Court.

(7) The Court shall cause notice to be given to every ascertained claimant * * * of the fact that the amount has been paid into Court and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(8) The Court shall decide all questions relating to the disposal of claims to the amount paid into Court.

44 48 * * * (1) Where the insurer is a company incorporated under the Indian Companies Act, 1913, and carries on the business of life-insurance, not less than one-fourth of the whole number of the directors of the company shall be persons having the prescribed qualifications and holding policies of insurance issued by the company, and shall be elected to the Board of Directors of the company in the prescribed manner by the holders of policies of insurance issued by the company.

(2) This section shall not take effect until the expiry of one year from the commencement of this Act.

45 48. No insurer, being an insurer specified in sub-clause (a) (i) or sub-clause (b) of clause (8) of section 2, shall declare or pay any dividend to share-holders or any bonus to policy-holders except out of a surplus ascertained as the result of an actuarial valuation of the assets and liabilities of the insurer.

WINDING UP.

53 44 (1) The Court may order the winding up in accordance with the Indian Companies Act, 1913, of any insurance company and the provisions of that Act shall, subject to the provisions of this Chapter, apply accordingly.

(2) In addition to the grounds on which such an order may be based; the Court may order the winding up of an insurance company—

(a) if with the sanction of the Court previously obtained a petition in this behalf is presented by shareholders not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees; or

(b) if * * * the Superintendent of Insurance who is hereby authorised to do so applies in this behalf to the Court on any of the following grounds, namely

(i) that the company has failed to deposit or to keep deposited with the Reserve Bank of India the amounts required by section 6, 7,

(ii) that the company having failed to comply with any requirement of this Act has continued such failure for a period of three months after notice of such failure has been conveyed to the company by the Superintendent of Insurance,

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No.

notice to
the assured
of the policy
lapse

~~46~~ 50. An insured shall give notice within three months of a policy lapsing informing the assured of the amount required to change the policy into a paid up policy within one year after such notice, if so desired by the assured.

~~47~~ ⁵¹ Every insured shall on application by a policyholder and on payment of a fee not exceeding one rupee, supply to the policyholder certified copies of the questions and answers contained in his proposal for insurance and in the medical report supplied in connection therewith.

Dividing
businessSerial
No.

52 No insurer shall, after the commencement of this Act, begin or continue to carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of the distribution of certain funds amongst the policies becoming claims within certain time limits or on the principle that the premiums payable by the policyholder depend wholly or partly on a number of policies becoming claims within certain time limits

Provided nothing in this section shall be deemed to prevent the insurer allocating bonuses to holders of policies of life insurance as a result of periodical actuarial valuation either as reversionary additions to the funds insured or as immediate cash bonuses or otherwise

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- (iii) that it appears from the returns furnished under the provisions of this ~~Act~~ or from the results of any investigation made thereunder that the company is insolvent, or
- (iv) that the continuance of the company is prejudicial to the interests of the policy holders.

Regulation

54.
~~Act of 1913.~~
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54. Notwithstanding anything contained in the ~~Indian Companies Act, 1913~~, an insurance company shall not be wound up voluntarily except for the purpose of effecting an amalgamation or a re-construction of the company, or on the ground that by reason of its liabilities it cannot continue its business.

Voluntary winding up.

Regulation

55. (1) In the winding up of an insurance company or in the insolvency of any other insurer the value of the assets and the liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject, so far as applicable, to the rule contained in the Sixth Schedule and to any directions which may be given by the Court.

Valuation of liabilities.

(2) For the purposes of any reduction by the Court of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as the Court thinks proper having regard to the rules aforesaid.

(3) The rule in the Sixth Schedule shall be of the same force and may be repealed, altered or amended as if it were a rule made in pursuance of section 246 of the ~~Indian Companies Act, 1913~~, and rules may be made under that section for the purpose of carrying into effect the provisions of this ~~Act~~ with respect to the winding up of insurance companies.

Regulation

Regulation

56. (1) In the winding up of an insurance company and in the insolvency of any other insurer the value of the assets and the liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business except in so far as those assets exceed the liabilities in respect of life insurance business.

Application of surplus assets of life insurance fund in liquidation or insolvency.

(2) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the winding up or insolvency allocated to policy-holders, if, when the assets and liabilities of the insurer have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a *prima facie* surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the *prima facie* surplus as is equivalent to such proportion of the profits allocated to shareholders and policy-holders as was allocated to policy-holders during the ten years immediately preceding the commencement of the winding up and the assets of the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition :

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Provided that—

(a) if in any case there has been no such allocation or if it appears to the Court that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the insurer in respect of the life insurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the Court may direct, and

(b) for the purpose of the application of this subsection to any case where before the commencement of the winding up or insolvency a proportion of such profits as aforesaid of a branch only of the life insurance business in question has been allocated to policy owners, the value of the assets and liabilities of the insurer in respect of that branch shall be separately ascertained in like manner as the value of his assets and liabilities in respect of the life insurance business was ascertained, and the surplus so found, if any, of assets over liabilities shall, for the purpose of determining the amount to be added to the liabilities of the insurer in respect of the life insurance business be deemed to be the *prima facie* surplus.

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58 (1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company (in this section referred to as the secondary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section referred to as the principal company) then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two companies and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one company.

(2) The commencement of the winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several companies among themselves the Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company or as near thereto as circumstances admit.

(4) Where any company alleged to be secondary is not in process of being wound up at the same time as the principal company to which it is alleged to be secondary, the Court shall not direct the secondary company to be wound up, unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is secondary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding up of any secondary company in conjunction with the principal company by any creditor of, or person interested in, the principal or secondary company

(6) Where a company stands in the relation of a principal company to one insurance company and in the relation of a secondary company to some other insurance company or where there are several insurance companies standing in the relation of secondary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

~~49.~~ (1) If at any time it appears expedient that the affairs of an insurance company in respect of any class of business comprised in the undertaking of the company should be wound up but that any other class of business comprised in the undertaking should continue to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the Court in accordance with the provisions of this Act.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policy-holders in respect of their policies and for the manner of winding up any of the affairs of the company which are proposed to be wound up and may contain provisions for altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they apply in the winding up of an insurance company, and any scheme under this section may apply with the necessary modifications any of the provisions of the ~~Indian Companies Act, 1913~~, relating to the winding up of companies.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its object shall as respects the alteration have effect as if it were an order confirmed under section 12 of the ~~Indian Companies Act, 1913~~, and the provisions of sections 15 and 16 of that ~~Act~~ shall apply accordingly.

~~50.~~ In the winding up of an insurance company and in the insolvency of any other insurer the liquidator or assignee as the case may be shall apply to the Court for an order for the return of the deposit made by the company under section ~~4~~ and the Court shall on such application order a return of the deposit subject to such terms and conditions as it shall direct.

~~51.~~ In the winding up of an insurance company and in the insolvency of any other insurer the liquidator or assignee as the case may be in the case of all persons appearing by the books of the company to be entitled to or interested in the policies granted by the company shall ascertain the value of the liability of the

company, to each such person and shall give notice of such value to those persons in such manner as the Court may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by a rule or order of the Court.

(52. (1) Where an insurance company is in liquidation or any other insurer is insolvent the Court may make an order reducing the amount of the insurance contracts of the company or other insurer upon such terms and subject to such conditions as the Court thinks just.

(2) Where a company carrying on the business of life insurance has been proved to be insolvent, the Court may if it thinks fit in place of making a winding up order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as the Court thinks fit.

(3) Application for an order under this section may be made either by the liquidator or by or on behalf of the company or by a policy-holder, or by the Superintendent of Insurance and the Superintendent of Insurance and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

SPECIAL PROVISIONS RELATING TO EXTERNAL COMPANIES.

153. Where by the law or practice of any country outside India in which an insurer carrying on insurance business in British India is constituted, incorporated or domiciled, insurance companies incorporated in British India are required as a condition of carrying on insurance business in that country to comply with any special requirement whether as to the keeping of deposits or assets in that country or otherwise which is not imposed upon insurers of that country under this Act, the Central Government shall if satisfied of the existence of such special requirement by notification in the Official Gazette, * * * direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of insurance in British India. *Amended*

154. Every insurer, having his principal place of business or domicile outside British India, who establishes a place of business within British India, or appoints a representative in British India with the object of obtaining insurance business, shall, within three months from the establishment of such place of business or the appointment of such agent, file with the Superintendent of Insurance—

- (a) a certified copy of the charter, statutes, deed of settlement or memorandum and articles or other instrument constituting or defining the constitution of the insurer, and, if the instrument is not written in the English language, a certified translation thereof,
- (b) a list of the directors, if the insurer is a company,

- (c) the name and address of some one or more persons resident in ~~British India~~ authorised to accept on behalf of the insurer service of process and any notice required to be served on the insurer, together with a copy of the power of attorney granted to him,
- (d) the full address of the principal office of the insurer in ~~British India~~ *Myne*,
- (e) a statement of the classes of insurance business to be carried on by the insurer, and
- (f) a statement verified by an affidavit setting forth the special requirements, if any, of the nature specified in section 52 imposed in the country of origin of the insurer on Indian ~~national~~ *national, banfauis,*

and, in the event of any alteration being made in the address of the principal office or in the classes of business to be carried on, or in any instrument here referred to, or in the name of any of the persons here referred to, the company shall forthwith furnish to the Superintendent of Insurance particulars of such alteration.

~~456.~~ Every insurer having his principal place of business or domicile outside ~~British India~~ shall keep ^B at his principal office in ~~British India~~ such books of ^{ke} account, registers and documents as will enable the ^{er} accounts, statements and abstracts which he is required under this ~~Act~~ to furnish to the Superintendent of Insurance in respect of the insurance business transacted by him in ~~British India~~ to be compiled and, if necessary, checked by the Superintendent of Insurance.

PART III.

PROVIDENT SOCIETIES.

65

~~56.~~ In this Part "provident society" means a ^{so} person who, or a body of persons whether corporate or ^{or} incorporate which receives premiums or contributions for securing annuities on human life or which, receives premiums or contributions for insuring money to be paid on the happening of any of the following contingencies, namely:—

- (a) the birth, marriage or death of any person ;
- (b) the survival by a person of a stated age or contingency ;
- (c) failure of issue ;
- (d) the occurrence of a social, religious or other ceremonial occasion ;
- (e) loss of or retirement from employment ;
- (f) disablement in consequence of sickness or accident ;
- (g) the necessity of providing for the education of a dependant ; and
- (h) any other contingency which may be prescribed or authorised by the ~~Provincial~~ Government.

~~57.~~ Nothing in this Part shall apply to a provident ^{Ar} society which pays or undertakes to pay on any policy ^{thi} of insurance an annuity exceeding fifty rupees or a gross sum exceeding five hundred rupees *exclusive of*

any profit or bonus.

Provided that for the purposes of this section contracts entered into before the commencement of this Act shall not be taken into consideration and provided further that * * * * * "policy" includes a series of policies covering one or more of the contingencies specified in section ~~56~~ 65.

~~7-58.~~ No provident society established after the commencement of this Act shall adopt as its name, and no provident society established before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words which fails to include the word "provident" or which includes the word "life"

~~8-59.~~ No provident society shall receive any premium or contribution for insuring money to be paid to any person other than the person paying such premium or contribution or the wife, husband, child, parent, brother or sister, nephew or niece of such a person.

~~9-60.~~ (1) No provident society shall carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution; amongst * policies maturing for payment within certain time limits, of * certain sums.

~~(2) The Superintendent of Insurance shall, as soon as possible, take steps to have any provident society which carries on business on the dividing principle wound up.~~

~~Provided that, where any such provident society in existence at the commencement of this Act applies within three months of such commencement to the Superintendent of Insurance for permission to continue carrying on its business with a view meanwhile to re-organise its business in accordance with the provisions of this Act, the Superintendent of Insurance may at his discretion, with due regard to the past history of the society, permit the society to continue business for a period not exceeding one year from the date of receipt of such permission, so however that no new business on the dividing principle is undertaken by the society.~~

~~10-61.~~ (1) No provident society except a provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall receive any premium or contribution until it has obtained from the Superintendent of Insurance a certificate of registration.

(2) Every application for registration shall be accompanied by—

(a) a certified copy of the rules of the society, and when the society is a company incorporate under the Indian Companies Act, 1913, certified copy of the Memorandum and Article of Association or where the society is not such a company a certified copy of the deed of constitution of the society;

(b) the names and addresses of the proprietors or directors, and the managers of the society;

(c) a certificate from the Reserve Bank of India that the initial deposit referred to in section 61 has been made; and

(d) a declaration verified by an affidavit that the minimum working capital required by section

62 is available.

(3) The Superintendent of Insurance may, refuse to issue a certificate of registration until he is satisfied that the rules of the society comply with the provisions of this ~~Act~~ and that the minimum working capital required by section ~~62~~ is available, but if he is so satisfied he shall register the society and its rules.

(4) The Superintendent of Insurance may, after giving previous notice in writing in such manner as he thinks fit specifying the grounds for the proposed cancellation, and allowing the society concerned an opportunity of being heard, ~~cancel a registration made under this section or made under the provisions of the Provident Insurance Societies Act, 1912,—~~

(a) if he is satisfied as the result of an inquiry made under section ~~57~~ 86,

(i) that the society is insolvent or is likely to become so, or

(ii) that the business of the society is conducted fraudulently or not in accordance with the rules thereof, or that it is in the interests of the policy-holders that the society should cease to carry on business,

(b) if the initial deposit or any of the further deposits required by section ~~63~~ 87 has not been made, or

(c) if the society, having failed to comply with any requirement of this ~~Act~~, has continued such failure for a period of one month after notice of such failure has been conveyed to the society by the Superintendent of Insurance :

Provided that the Superintendent of Insurance may, if he thinks fit, instead of ~~cancelling a~~ registration under sub-clause (i) of clause (a) of this sub-section make a recommendation to the Court that the contracts of the society should be reduced in such manner and subject to such conditions as he may indicate.

~~71. 62~~ No provident society established after the commencement of this ~~Act~~ shall be registered unless it has a paid up capital sufficient to provide as working capital a net sum of not less than five thousand rupees exclusive of deposits made under this ~~Act~~ and exclusive in the case of a company of any expenses incurred in connection with the formation of the company.

~~2. 63~~ (1) Every provident society shall, if established before the commencement of this ~~Act~~ within one year from such commencement, or, if established after the commencement of this ~~Act~~ before the society applies for registration under section ~~61~~, deposit and keep deposited with the Reserve Bank of India in one of the offices in India of the Bank for and on behalf of the Central Government, cash or approved securities amounting at the market value of the securities on the date of deposit to five thousand rupees, and shall thereafter make each year a further deposit amounting to not less than one-fifth of the gross premium income for the year (including admission fees and other fees received by the society) until the total amount so deposited and kept in approved securities is fifty thousand rupees.

(2) The provisions of sub-sections (9), (10) and (11) of section ~~8~~ and of sub-section (1) of section ~~7~~ shall apply to the deposits made under this section as they apply to deposits made by an insurer.

(1) Every provident society established after the commencement of this ~~Act~~ shall in its rules set forth—

- (a) the name, the object and the location of the registered office of the society ;
- (b) the contingencies or classes of contingency on the happening of which money is to be paid ;
- (c) the conditions to be complied with before, and the payments to be made on, admission to the society ;
- (d) the rates of premium or contribution, and the periods for which or the times at which premiums or contributions are payable ;
- (e) the maximum amount payable to a subscriber or policy-holder
- (f) the nature and amounts of the benefits provided for by the society ;
- (g) the circumstances in which a bonus may be paid to a policy-holder
- (h) the nature of the evidence required for the proof of the happening of any contingency on which money is to be paid ;
- (i) the circumstances in which policies may be forfeited or renewed or the whole or a part of the premiums paid on a policy may be returned, or a surrender value of a policy may be granted ;
- (j) the penalties for delay in paying or failure to pay premiums or contributions ;
- (k) the proportion of the annual income of the society which may be disbursed on and the provisions to be made for meeting the expenses of the management of the society ;
- (l) the person or persons who or the authority which shall have power to invest the funds of the society ;
- m) the provisions for appointment of auditors and their remuneration ;
- (n) the procedure to be adopted in altering the rules of the society ;
- (o) unless these are provided for in the articles of association of a society which is a company incorporated under the ~~Indian Companies Act, 1913~~
- (i) the mode of appointment and removal, the qualification and the powers of a director, manager, secretary or other officer of the society ;
- (ii) the manner of raising additional capital ; and
- (iii) the provisions for the holding of general meetings of the members and policy-holders and for the powers to be exercised and the procedure to be followed thereat ; and
- (p) such other matters as may be prescribed.

(2) Where the rules of any provident society registered under the ~~Provident Insurance Societies Act, 1912~~, fail to comply with the provisions of this section the society shall, before the expiry of six months from the commencement of this ~~Act~~, amend the rules so as to comply with these provisions.

~~74~~ ~~65~~. (1) No amendment of any rule of a provident society shall be valid until it has been sent to the Superintendent of Insurance and has been registered by him.

(2) The Superintendent of Insurance on being satisfied that the proposed amendment is not contrary to the provisions of this ~~Act~~ shall, unless he is of opinion that the amendment unfairly affects the rights of existing members or policy-holders of the society, issue to the society an acknowledgment of the registration of the amended rule.

~~5~~ ~~66~~. Every provident society shall on demand deliver free of cost to any member of the society a copy of the rules of the society and to any person other than a member a copy of such rules on the payment of a sum not exceeding one rupee.

~~76~~ ~~67~~. Every provident society * * * *
* * * * shall have an office (on the outside of which it shall keep displayed its name in a conspicuous position in legible characters) to which all communications and notices may be addressed and shall give notice to the Superintendent of Insurance of any change in the location thereof within 28 days of its occurrence.

~~77~~ ~~68~~. Where any notice, advertisement or other official publication of a provident society contains a statement of the amount of the authorised capital of the society the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

~~78~~ ~~69~~. Every provident society shall keep at its registered office—

- (a) a register of members in which shall be entered the name, address and occupation, if any, of every proprietor, director, manager or secretary and of every member of the society ;
- (b) a register or record of policies in which shall be entered in respect of every policy issued by the society, the name and address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the society has notice ;
- (c) a register of claims in which shall be entered every claim made, together with the date of the claim, the name and address of the claimant and the date on which the claim is discharged or in the case of a claim which is rejected the date of rejection and the grounds therefor ;
- (d) a register of agents in which shall be entered the name and address of every agent employed by the society ;
- (e) a cash book in which shall be entered separately for each class of contingency separately specified in section ~~56~~ all sums received and expended by the society and the matters in respect of which the receipt or expenditure takes place ;
- (f) a ledger ; and
- (g) a journal.

~~70.~~ (1) Every provident society shall at the expiry of the calendar year prepare a revenue account and balance-sheet in the prescribed form verified in the prescribed manner, together with a report on the general state of the society's affairs and shall cause the revenue account and balance-sheet to be audited by an auditor and the auditor shall so far as may be in the audit of a provident society have the powers of, and exercise the functions vested in, and discharge the duties imposed on an auditor of companies by section 145 of the Indian Companies Act, 1913.

(2) Every provident society shall at the expiry of the calendar year prepare with respect to that year—

(a) a statement showing separately for each class of contingency separately specified in section

65—

(i) the number of new policies effected, the total amount insured thereby and the total premium income received in respect thereof and the number of existing policies discontinued during the year with the total amount insured thereby, and

(ii) the total amount of claims made and the total amount paid in satisfaction thereof;

* * * * *

(b) a statement showing details of every insurance effected on a life other than the life of the person insuring, and

(c) a statement showing the total amount paid as allowances to agents and canvassers.

~~(3) Until the expiry of two years from the commencement of this Act this section shall apply to provident societies registered before the commencement of this Act under the Provident Insurance Societies Act, 1912, as if the reference to the calendar year were a reference to either the financial year or the calendar year.~~

~~71.~~ (1) Every provident society shall once in every five years or at such shorter intervals as may be laid down by the rules of the society cause an investigation to be made into its financial condition including the valuation of its liabilities and assets by an actuary.

(2) The report of the actuary shall contain an abstract in which shall be stated—

(a) the general principles adopted in the valuation, including the method by which the valuation age of lives was ascertained,

(b) the rate at each age of the mortality and any other factor assumed and the annuity values used in valuation,

(c) the reserve values held against policies effected,

(d) the rate of interest assumed, and

(e) the provision made for expenses,

and shall have appended to it a certificate signed by a principal officer of the society that all material necessary for proper valuation has been placed at the disposal of the actuary and that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(3) If the actuary finds that the financial condition of the society is such that no surplus exists for distribution as bonus to the policy-holders or as dividend to the shareholders, he shall state in his report whether in his opinion the society is insolvent and, if so, whether it should be wound up or not, and the extent to which in his opinion existing contracts should be modified or existing rates of premium should be adjusted to make good the deficiency in the assets.

~~72.~~ (1) The revenue account and balance-sheet with the auditor's report thereon and the report on the general state of the society's affairs referred to in sub-section (1) of section ~~70~~, and the statements referred to in sub-section (2) of section ~~70~~, ~~71~~ * * * shall be furnished as returns to the Superintendent of Insurance within three months from the end of the period to which they relate and copies of the revenue account and balance-sheet and the auditor's report thereon and of the report on the general state of the society's affairs shall, on the application of any member or policy-holder made within two years from the date on which the document was so furnished, be sent to him within fourteen days from the receipt of the application on payment of a fee of one rupee.

(2) All the material necessary for the proper valuation of the liabilities of the society under the provisions of section ~~71~~ shall be placed at the disposal of the actuary within three months from the end of the period to which such material relates, and the report and abstract referred to in section ~~71~~ shall be furnished as a return to the Superintendent of Insurance within a further period of three months.

(3) The provisions of section ~~76~~ shall apply to the accounts and balance-sheet of a provident society being a company incorporated under the ~~Indian Companies Act, 1913~~, as they apply to the accounts and balance-sheet of an insurer.

~~70.~~ (1) Every provident society, established after the commencement of this ~~Act~~, shall cause every scheme of insurance which it proposes to put into operation, and every provident society registered before the commencement of this ~~Act~~ under the provisions of the ~~Provident Insurance Societies Act, 1912~~, shall cause any new scheme which it proposes to put into operation after such commencement to be examined by an actuary, and shall not receive any premium or contribution in connection with the scheme until the actuary has certified that the scheme is sound and such certificate has been forwarded to the Superintendent of Insurance.

(2) The provisions of sub-section (1) shall apply to any alteration of a scheme already in operation, but the Superintendent of Insurance may, if he is of opinion that the alteration unfairly affects the interests of existing policy-holders, prohibit the alteration, and, if he does so, the society shall not put the altered scheme into operation, unless it first discharges to the satisfaction of the Superintendent of Insurance all its liabilities to those of the existing policy-holders who dissent from the alteration.

(3) ~~Every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall as soon~~

as may be and in any event before the expiry of six months from the commencement of this ~~Act~~, submit all schemes of insurance which the society has in operation at the commencement of this ~~Act~~ to examination by an actuary and shall send the report of the actuary thereon to the Superintendent of Insurance.

3) ~~(4)~~ The report of the actuary shall state in respect of each scheme whether it is actuarially sound and where no actuarial report such as is referred to in section ~~71~~ has been made within the two years preceding the examination the report shall also state whether the assets of the society are sufficient to meet its liabilities under the existing schemes, and, if not, how in the opinion of the actuary the existing contracts should be modified.

4) ~~(5)~~ If any scheme is reported by the actuary to be actuarially unsound, the Superintendent of Insurance shall give notice to the society prohibiting the operation of the scheme; and the society shall not receive any premium or contribution or effect any policy in connection with the scheme after the expiry of one month from the receipt of such notice.

5) ~~(6)~~ Where a scheme is discontinued under the provisions of sub-section ~~(5)~~ the society shall, where its assets are sufficient to meet all existing liabilities, set apart out of its assets the sum sufficient in the opinion of the actuary to meet the liabilities incurred under the scheme so discontinued, and where its assets are not so sufficient, within three months from the date of the discontinuance, apply to the Court for a modification of its existing contracts or failing such modification for the winding up of the society.

33 ~~54~~. Where a provident society effects policies of insurance in connection with more than one of the classes of contingency separately specified in section ~~56~~, the receipts and payments in respect of each such class shall be recorded in a separate account in the cash book kept in accordance with section ~~69~~. ~~75~~

* * * * *

84 ~~75~~-(1) Every provident society shall, unless it already holds invested in Government securities or securities mentioned ~~or referred to in clauses (c) and (d) of section 20 of the Indian Trusts Act, 1882,~~ not less than fifty per cent. of the total assets of the society, invest all surplus assets in such securities until the total amount so invested amounts to not less than fifty per cent. of the total assets of the society, and shall thereafter keep invested in such securities not less than fifty per cent. of the total assets of the society.

(2) No funds or investments of a provident society shall be kept otherwise than in the name of the society.

(3) No loan shall be made out of the assets of a provident society to any director or officer of the society except on the security of a policy of insurance held in the society and no such loan shall be made to any concern of which a director or officer of the society is a director or partner.

(4) Any director or officer of a society which contravenes the provisions of sub-section (3), who is knowingly a party to the contravention, shall without prejudice to any other penalty which he may incur be jointly and severally liable to the society for the amount of the loan, and such amount, together with interest from the date of the loan at such rate not exceeding

twelve per cent. per annum as the Superintendent of Insurance may fix, shall on application by the Superintendent of Insurance to any civil Court of competent jurisdiction be recoverable by execution as if a decree for such amount had been passed by that Court.

~~76.~~ The books of every provident society shall at all reasonable times be open to inspection by the Superintendent of Insurance or any person appointed by him in this behalf or by any member or policy-holder of the society who has made an application in this behalf to the Superintendent of Insurance.

(1) The Superintendent of Insurance shall at least once in two years and may, if he thinks fit, at any time visit the principal office of a provident society and inquire into the solvency of the society and the manner in which the business of the society is conducted or may, after giving notice to the society and giving it an opportunity to be heard, direct such an inquiry to be made by an auditor or actuary appointed by him

(2) For the purposes of any such inquiry the Superintendent or the auditor or actuary, as the case may be, shall be entitled to examine all books and documents of the society and may demand from the society or any officer of the society such explanations as he may require on any matter relating to the affairs of the society.

(3) The results of any such inquiry shall be recorded in a report which shall be kept in the office of the Superintendent and shall be sent to the society concerned and shall be open to inspection by any member or policy-holder of the society.

7 ~~78.~~ (1) The Court may order the winding up of a provident society being a company incorporated under the Indian Companies Act, 1913, and the provisions of that Act shall, subject to the provisions of this Chapter, apply accordingly.

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of a provident society, if the registration of the society is cancelled by the Superintendent of Insurance under sub-section (4) of section ~~81~~ and he applies for the winding up of the society.

(3) A provident society being a company incorporated under the Indian Companies Act, 1913, may be wound up voluntarily in accordance with the provisions of that Act, but shall not be so wound up except for the purpose of effecting an amalgamation or re-construction of the society or on the ground that by reason of its liabilities it cannot continue its business.

(4) A provident society not being a company incorporated under the Indian Companies Act, 1913, may be wound up voluntarily under this Act if a resolution is passed by the proprietors that the society should be wound up voluntarily for the purpose or on the ground specified in sub-section (3), and the Superintendent of Insurance may, in any case where he has ordered the cancellation of the registration of a society under sub-section (4) of section ~~81~~, order the winding up of the society under this Act. *Regulation.*

~~79.~~ The Court may make an order reducing the amount of the insurance contracts of a provident society

upon such terms and subject to such conditions as the Court thinks just—

- (a) if the Superintendent of Insurance as an alternative to cancelling the registration of a society under sub-section (4) of section 61 applies to the Court in this behalf ;
- (b) if while a society is in liquidation the Court thinks fit ; or
- (c) if when a society has been proved to be insolvent the Court thinks fit to do so in place of making an order for the winding up of the society ; or
- (d) if the Court is satisfied on an application-made in this behalf by the society supported by the report of an actuary, and after giving the policy-holders an opportunity to be heard that it is desirable to do so.

(1) Where a provident society is to be wound up under the Indian Companies Act, 1918, or under this Act, the society shall, within seven days from date of the order of the Court ordering the winding up or the passing of the resolution authorising the winding up as the case may be, give notice thereof to the Superintendent of Insurance, and, except where the winding up is done by an order of the Court, the Superintendent of Insurance shall appoint the liquidator and shall determine the remuneration to be paid to him.

(2) Any liquidator so appointed may be removed by the Superintendent of Insurance if satisfied that the duties entrusted to him are not being properly discharged.

(3) A liquidator appointed to wind up a society shall have power—

- (a) to institute or defend any legal proceedings on behalf of the society by his name or office ;
- (b) to determine the contribution to be made by the members of the society respectively to the assets of the society ;
- (c) to investigate all claims against the society and to decide questions of priority arising between claimants ;
- (d) to determine by what persons and in what proportion the costs of the liquidation are to be borne ;
- (e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ;
- (f) to summon, and enforce the attendance of, witnesses and to compel the production of documents by the same means and as far as may be in the same manner as is provided in the case of a civil Court by the Code of Civil Procedure, 1908 ; and
- (g) with the sanction of the Superintendent of Insurance, to employ such establishment and to obtain such assistance from an actuary or an auditor as may be necessary for the discharge of his duties.

The liquidator shall, for settling the list of contributories and realising the amount of contributions.

have the same powers as an official liquidator appointed by the Court for the winding up of a company under the Indian Companies Act, 1913.

VII of 1913.

Amended

91

(1) As soon as a liquidator is appointed to wind up a society he shall take charge of all property movable or immovable of the society and of all its books and documents.

(2) If any proprietor or officer of the society or any other person retains any portion of the assets of the society or fails to deliver to the liquidator any book or document when so required by the liquidator, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and the Court may order the delivery of the assets or book or document to the liquidator.

(3) The liquidator shall within fifteen days of his appointment send notice by post to all persons who appear to him to be creditors of the society that a meeting of the creditors of the society will be held on a date not being less than twenty-one nor more than twenty-eight days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the local Official Gazette and once at least in two newspapers circulating in the province in which the society is situated.

(4) At the meeting so held the creditors shall determine whether an application shall be made for the appointment of any person as liquidator in the place of jointly with the liquidator already appointed, or for the appointment of a committee of inspection, and, if they so resolve and an application accordingly is made at any time not later than fourteen days after the date of the meeting by any creditor appointed for the purpose at the meeting, the Superintendent of Insurance shall appoint a suitable person jointly with the liquidator already appointed, and, if so desired, a committee of inspection.

(5) The committee of inspection shall, subject to any prescribed conditions, have a general power of supervision over the acts of the liquidator and shall have the right to inspect his accounts at all reasonable times.

(6) The liquidator shall, with such assistance from a actuary as may be required, ascertain as soon as practicable the amount of the society's liability to every person appearing by the society's books to be entitled to or interested in any policy issued by the society, and shall give notice of the amount so found to each such person in the prescribed manner and each such person on receiving such notice shall be bound by the value so ascertained.

(7) The liquidator shall make a valuation of the assets of the society and an estimate of the costs of the winding up, and shall on the basis of these settle the list of contributories.

(8) The liquidator shall apply to the Superintendent of Insurance for an order for the return of the deposits made by the society under section 63 and the Superintendent of Insurance shall on such application order the return of the deposit subject to such terms and conditions as he may think fit.

(9) In administering and distributing the assets of the society the liquidator shall have regard to an

directions that may be given by the creditors or contributories at a general meeting or by the Superintendent of Insurance.

(10) The liquidator shall keep books of account in which he shall record the proceedings at all meetings attended by him, all amounts received or expended by him and any other matter that may be prescribed, and these books may, with the sanction of the Superintendent of Insurance, be inspected by any creditor or contributory.

(11) If the winding up continues for more than a year, the liquidator shall summon a meeting of the creditors and contributories at the end of the first year and of each succeeding year, and shall lay before them an account of his acts and dealings and of the conduct of the winding up, and that account together with any views expressed thereon by the meeting shall be forwarded by the liquidator to the Superintendent of Insurance.

(12) So far as is not otherwise provided herein or is not otherwise prescribed under this Act, the liquidator shall so far as practicable follow the procedure to be followed by an official liquidator appointed by the Court for the winding up of a company under the Indian Companies Act, 1913.

17-88. (1) As soon as the affairs of a provident society are fully wound up the liquidator shall prepare an account of the winding up showing how the winding up has been conducted and the property of the society has been disposed of and shall call a meeting of the members, creditors and contributories for the purpose of laying before it the account and giving any explanation thereof.

(2) Notice of the meeting shall be sent to each person individually and shall be advertised in the local Official Gazette and in at least two newspapers circulating in the province in which the society is situated.

(3) Within one week after the meeting the liquidator shall send to the Superintendent of Insurance a copy of the account and shall report to him the holding of the meeting and its date and shall forward to him a copy of the proceedings of the meeting.

(4) The Superintendent of Insurance may return the account to the liquidator if it is incomplete or unsatisfactory and may require the liquidator to carry out any further steps necessary to complete the winding up and the liquidator shall comply with such requirement and shall submit a further report to the Superintendent of Insurance within six months.

(5) If the Superintendent of Insurance is satisfied that the affairs of the society have been fully wound up he shall register the account of the liquidator who shall forthwith make over to the Superintendent of Insurance sums, if any, remaining undisposed of; and on the expiry of three months from the registering of the account the Superintendent of Insurance shall declare the society dissolved and cause the dissolution of the society to be notified in the local Official Gazette, and the liquidator shall thereupon be discharged from further responsibility.

(6) If within a period of five years from the date on which any sums have been made over to the Superintendent of Insurance under sub-section (5) an order of

a Court of competent jurisdiction has not been obtained at the instance of any claimant to such sums for their disposal, the said sums shall become the property of Government.

93 ~~84.~~ (1) The provisions of section ³⁸~~33~~ and section ³⁹~~34~~ relating to assignment, transfer and nomination in the case of life insurance policies shall, subject to the provisions of this section, apply to policies of insurance issued by any provident society covering any of the contingencies specified in clause (a) or clause (b) of section ~~56~~ ⁶⁵.

(2) No nomination shall be valid if the person nominated is not the husband, wife, father, mother, child, brother, sister, nephew or niece of the holder of the policy.

~~85.~~ (1) An appeal shall lie to the Court within thirty days—

- (a) from an order of the Superintendent of Insurance refusing to register a provident society or any rules or amendments of rules of such society;
- (b) from an order of the Superintendent of Insurance cancelling the registration of a society;
- (c) from an order made by a liquidator appointed under section 80.

(2) Save as provided in sub-section (1) any order made under this Part shall be final and conclusive.

PART IV.

MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE INSURANCE SOCIETIES.

~~86.~~ In this Part—

- (a) "Mutual Insurance Company" means an insurer, being a company incorporated under the provisions of the Indian Companies Act, 1913, which has no share capital and of which by its constitution only policy-holders are members; and
- (b) "Co-operative Insurance Society" means an insurer being a society registered under the Co-operative Societies Act, 1912, which has no share capital and of which by its constitution only policy-holders are members.

~~87.~~ The provisions of sections ~~5 and 6~~ and of sub-section (2) of section ~~13~~, so far as those provisions are inconsistent with the provisions of this Part, shall not apply, and the provisions of this Part shall apply, to Mutual Insurance Companies and Co-operative Insurance Societies.

~~88.~~ No Mutual Insurance Company incorporated after the 31st day of December, ~~1933~~, and no Co-operative Insurance Society registered after that date under the Co-operative Societies Act, 1912, shall be registered under this Act, unless it has as working capital a sum of ~~twenty five thousand rupees~~, exclusive of the deposits to be made ~~under this Act~~ and of the preliminary expenses, if any, incurred in the formation of the company or society.

⁹⁷
~~89.~~ (1) Every Mutual Insurance Company and every Co-operative Insurance Society shall, in respect of the life insurance business carried on by it in British India, deposit and keep deposited with ~~one of the officers in India of the Reserve Bank of India, for and on behalf of the Central Government,~~ a sum of ~~two~~ hundred thousand rupees in cash or in approved securities estimated at the market value of the securities on the day of deposit.

(2) The deposit referred to in sub-section (1) may be made in instalments, of which the first shall be a payment, made before or at the time the application for registration under this Act is made, of ~~fifty~~ thousand rupees ~~or such sum as with any deposit previously made by the insurer under the provisions of the Indian Life Assurance Companies Act, 1912, brings the amount deposited up to fifty thousand rupees,~~ and the subsequent instalments shall be annual instalments made before the expiry of each subsequent year of an amount in cash or in approved securities estimated at the market value of the securities on the day of payment of the instalment, equal to one-third of the gross premium income received in the previous year.

~~90.~~ No transferee or assignee of a policy issued by an insurer to whom this Part applies shall become a member of a Mutual Insurance Company or a Co-operative Insurance Society merely by reason of any such transfer or assignment.

⁹⁸
~~91.~~ Notwithstanding the provisions of section 79 and section 131 of the Indian Companies Act, 1913, a Mutual Insurance Company may, instead of sending the notices and the copies of the balance-sheet, revenue account and other documents which they are required to send to the members under those sections, publish such notices or documents, once in a newspaper published in the English language and in a newspaper published in an Indian language circulating in the place where the principal office of the company is situated.

Provided that, where any members of the company are domiciled in a province other than that in which the principal office of the company is situated, similar publication shall be made in two newspapers of that province.

¹⁰⁰ ~~92.~~ Every Mutual Insurance Company shall, on the application of any member made within two years from the date on which any such document is furnished to the Registrar of Companies under the provisions of section 134 of the Indian Companies Act, 1913, furnish a copy of the document free of cost to the member within fourteen days of the application.

PART V.

MISCELLANEOUS.

¹⁰¹
~~93.~~ (1) Any insurer who makes default in complying with or acts in contravention of any requirement of this Act and, where the insurer is a company, any director, managing agent, manager or other officer of the company, or where the insurer is a firm, any partner of the firm, who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues.

Definition

Serial
No.

94 (1) In this part —

- (a) "mutual distance company" means an insurer being a company incorporated under the provisions of the Mysore Companies Regulation, 19 which has no share capital and of which it is constitutionally and all policyholders are members; and
- (b) "cooperative life distance society" means an insurer being a society registered under the Cooperative Societies Regulation, 1918, which has no share capital on which dividend or bonus is payable and of which it is constitutionally and all policyholders are members.

(2) The Government may empower the Registrar of Cooperative Societies to register co-operative societies for insurance of cattle or crop or both under the provisions of the Cooperative Societies Regulation in force

(3) The Government may make rules not inconsistent to govern such

Societies, and the provisions of this Regulation in so far as they are inconsistent with those rules or regulations shall not apply to such Societies

[N.B. In the Indian enactment, there is a proviso as under, which has been omitted here as no such Insurance Society exists in India.

provided that any Cooperative Life Insurance Society in existence at the commencement of this Regulation, shall be allowed a period of one year for complying with the provisions of this Regulation]

Serial
No.

106. Save and except where it is
instituted by the Superintendent of Insurance,
no proceedings under this Regulation against
an insurer or any director, manager
or other officer of an insurer or any person
who is liable under section 41 (2), shall
be instituted by any person unless he
has previous thereto obtained the sanction
of the Government to the institution of
such proceedings

(2) Any provident society which makes default in complying with any of the requirements of Part III and any director, managing agent, manager, secretary or other officer of the society who is knowingly a party to the default, shall be punishable with fine which may extend to five hundred rupees or in the case of a continuing default with fine which may extend to two hundred and fifty rupees for every day during which the default continues.

~~-94.~~ (1) Any insurer or any person acting on behalf of an insurer, who transacts any class of insurance business in contravention of any of the provisions of section 3, section ~~5~~ or section ~~8~~ or does any one or more of the acts constituting the business of insurance in relation to any such class of insurance business shall be punishable with fine which may extend to two thousand rupees.

(2) Any person knowingly taking out a policy of insurance with any insurer or person guilty of an offence under sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

~~95.~~ Whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this ~~Act~~, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

~~-96.~~ Any director, managing agent, manager or other officer or employee of an insurer who wrongfully obtains possession of any property of the insurer or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or authorised by this ~~Act~~ shall, on the complaint of the insurer or any member or any policy-holder thereof, be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied and in default to suffer imprisonment for a period not exceeding two years.

~~-97.~~ If on the application of an insurer or any member of an insurance company or any policy-holder or the liquidator of an insurance company (in the event of the insurer being in liquidation) the Court is satisfied that by reason of any contravention of the provisions of this ~~Act~~ the amount of the life-insurance fund has been diminished, every person who was at the time of the contravention a director, manager, liquidator or an officer of the insurer shall be deemed in respect of the contravention to have been guilty of misfeasance in relation to the insurer unless he proves that the contravention occurred without his consent or connivance and was not facilitated by any neglect or omission on his part; and the Court shall have all the powers which a Court has under sections 235 and 237 of the ~~Indian Companies Act, 1913~~, and shall also have the power to assess the sum by which the amount of the life-insurance fund has been diminished by reason of the misfeasance and to order any person guilty thereof to contribute to that fund the whole or any part of that sum by way of compensation.

~~-98.~~ If in any proceedings, civil or criminal, it appears to the Court hearing the case that a person is or may be liable in respect of negligence, default, breach of duty or

breach of trust but that he has acted honestly and reasonably and that having regard to all the circumstances of the case he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the Court may relieve him either wholly or partly from his liability on such terms as it may think fit.

~~108-99.~~ No Court inferior to that of a ~~Presidency Magistrate~~ ^{District} or a Magistrate of the first class shall try any offence under this ~~Act~~ ^{Regulation}.

~~109.~~ (1) Any process or notice required to be served on an insurer or provident society shall be sufficiently served if addressed to any person registered with the Superintendent of Insurance as a person authorised to accept notices on behalf of the insurer or provident society and left at, or sent by registered post to, the address of such person as registered with the Superintendent of Insurance.

(2) Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of such policy :

Provided that, where any person claiming to be interested in a policy as transferee, assignee or nominee has given to an insurer or to a provident society notice in writing of his interest, any notice which is by this Act required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

~~111.~~ (1) The ~~Central~~ Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules to carry out the purposes of this ~~Act~~ ^{Regulation}.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the qualifications to be possessed by actuaries ;
- (b) the manner in which it shall be determined for the purposes of this Act what is insurance business transacted in ~~British India~~ ; ^{India}
- (c) the procedure to be followed by the ~~Reserve Bank of India~~ in dealing with deposits made in pursuance of this Act, including the custody of, withdrawal of, payment of interest on securities, lodged as such deposits, and their inspection and verification by the Superintendent of Insurance ;
- (d) the form referred to in clause (d) of sub-section (2) of section ~~15~~ ; ¹⁶
- (e) the manner in which the prospectuses and tables referred to in sub-section (1) of section ~~20~~ shall be published and the form in which they shall be drawn up
- (f) the matters to be prescribed for the purposes of section ~~42~~ ; ⁴⁸
- (g) the manner in which licences to act as insurance agents may be issued or cancelled ; and the qualifications to be possessed by such agents ;

Serial
No.

- 109.(1) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely
- (a) an order under section 3 refusing to register or cancelling the registration of an insurer;
 - (b) an order under section 5 directing the insurer to change his name;
 - (c) an order under section 42 cancelling the licence issued to an agent;
 - (d) an order under section 74 refusing to register an amendment of rules;
 - (e) an order under section 86 directing an enquiry by an auditor or actuary; or
 - (f) an order made in the course of the winding up or insolvency of an insurer or a provident society.
- (2) The Court having jurisdiction for the purposes of sub-section (1) shall be the principal Court of Court jurisdiction within whose local limits the principal place of business of the insurer concerned is situate

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorized to hear appeals from the decisions of the court making the same and the decision on such appeal shall be final

Serial
No.

111. Notwithstanding anything to the contrary contained in this Regulation an insurer carrying on the business of life insurance shall be at liberty to declare an interim bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the intervalation period on the recommendation of the investigating actuary made at the last preceding valuation.

112 ~~112~~ In cases where a definite number of premiums is payable a policy of life insurance on which all premiums have been paid for three consecutive years shall acquire a guaranteed surrender value and notwithstanding any contract to the contrary shall not lapse by reason of non-payment of further premium but shall notwithstanding such non-payment of ~~premium~~ be kept alive to the extent of its paid up value.

Explanation. — (1) The paid up value above-mentioned will be such a

proportionate part of the sum assured as the total amount of the full premiums paid bears to the total amount of the premiums payable under the policy

(2) A policy paid up as above will not participate in the profits of the insurer earned after such non-payment.

(3) The section shall not apply to (a) policies in respect of which the sum assured is payable only on the happening of a contingency which may not arise or (b) where the paid up value will be less than Rs 100 or (c) where the parties after the default has occurred in the payment of the premium agree in writing to some other arrangement or (d) to policies in which the surrender value is automatically applied under the ~~former~~ terms of the contract to maintaining the policy in force after its lapse through non-payment of premium

Serial
No.

Power to
exempt from
certain require-
ments

115. The Government may, by notification in the official Gazette exempt any insurer constituted, incorporated or domiciled in ~~an~~ British India or in an Indian State from the provisions of section 7~~6~~ relating to deposits or from the provisions of sub-section (1) of section 27 relating to the keeping of assets in India either absolutely or subject to such conditions or modifications as may be specified in the notification

Saving of
provisions of
the Reserve Bank
Regulation, 19

116 Nothing in this Regulation shall affect the liability of an insurer being a company to comply with the provisions of the Reserve Bank Regulation, 19, in matters not otherwise specifically provided for by this Regulation

~~Exclusion of
Trade Unions
from the operation
of this Regulation.~~

~~117 Nothing in this Regulation shall apply to any Trade Union registered under~~

117

File No.

of 193

General and Revenue
Secretariat

118 Every insurer registered under this Regulation shall deposit and keep deposited with the Superintendent of Insurance, copies of all forms of policy contract issued by him in Mysore.

Policy forms to
be deposited
with the
Superintendent

(h) the contingencies other than those specified in clauses (a) to (g) of section ~~36~~ on the happening of which money may be paid by provident societies; 65

(i) the matters other than those specified in clauses (a) to (n) of sub-section (1) of section ~~64~~ on which a provident society shall make rules; 73

(j) the form of any account, return or register required by Part III and the manner in which such account, return or register shall be verified;

(k) subject to the provisions of this Act the fees payable thereunder and the manner in which they are to be collected; Regulation

(l) the conditions and the matters which may be prescribed under sub-sections (5), (10) and (12) of section ~~82~~; and 91

(m) the procedure to be followed in the making of and the disposal of complaints relating to the giving or receiving of unlawful rebates.

(3) All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, 1912, and in force at the commencement of this Act shall so far as not inconsistent with the provisions of Part III continue in force and have effect as if duly made under this section until they are replaced by rules made under this section. 113A.

V of 1912.

114 ~~102~~. The ~~Central~~ Government may, on the application or with the consent of an insurer, not being a company, alter the * * forms contained in the Schedules as respects that insurer, for the purpose of adapting them to the circumstances of that insurer: Alteration of forms.

Provided that nothing done under this section shall exempt the insurer from supplying all information required under this Act so far as it is possible for the insurer to do so. Regulation

114 A. The Market value on the day of deposit of securities, as deposited in pursuance of any provision of this Regulation shall be determined by the Comptroller, whose decision shall be final.

~~103~~. The Superintendent of Insurance may delegate all or any of his powers and functions under Part III to the officer appointed by the Central Government to exercise in a province the powers and functions of the Superintendent of Insurance in relation to provident societies. Delegation of powers.

* * * * *

Regulation, 1918/IX of 1932.

119 ~~104~~. To the Exception to section 130 of the Transfer of Property Act, 1882, the following words and figures shall be added, namely:— Amendment of section 130, Act IV of 1882. Regulation 1918

“or affects the provisions of section ~~33~~ of the Insurance Act, 1937”. Regulation, 1938, 38

Regulation, 1911, IX of 1908.

120 ~~105~~. In the First Schedule to the Indian Limitation Act, 1908, for the entry in the third column relating to article 86 the following entry shall be substituted, namely:— Amendment of Schedule I, Act IX of 1908. Regulation IV of 1911

“The date of the death of the deceased.....”

V of 1912.

VI of 1912.

XX of 1928.

106. The Provident Insurance Societies Act, 1912, the Indian Life Assurance Companies Act, 1912, and the Indian Insurance Companies Act, 1928, are hereby repealed. Repeals.

42

new For Section 115 to 118 please see page flagged m.

THE FIRST SCHEDULE.

(See section 10-) 16-11

Regulations and Form for the preparation of Balance-Sheet.

PART I.

Regulations.

1. The balance-sheet required to be prepared in respect of every class of business carried on by an insurer is, in the form in which it is set out in Part II of this Schedule (Form A), appropriate to a case where the insurer maintains a separate fund in respect of life insurance business.

2. The balance-sheet of life-insurance business shall be prepared as a separate document. The balance-sheet of any class of business may be prepared as a separate document instead of being incorporated by the addition of columns and headings in the general balance-sheet, but the totals of each such separate balance-sheet (showing the total assets of the class of business, the balance at the credit of the life insurance fund or other separate fund or account, the amount of shareholders' undivided profits, and outstanding liabilities) must in any case be incorporated in the general balance-sheet.

3. If any combined balance-sheet is for any purpose issued by an insurer, it shall be in accordance with the Form set out in this Schedule, and there shall not be included among the assets shown in any such combined balance-sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance-sheet must show clearly on the face thereof that it is a combined balance-sheet and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein; if the assets and liabilities of any person not being an insurer are included in a combined balance-sheet the fact must be stated thereon.

4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of re-insurance business) in respect of the policies of any other insurer, the balance-sheet of the insurer by whom the guarantee was given must show clearly the name of every insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this regulation shall not apply where a combined balance-sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside British India as security for the owners of policies issued in that place, the balance-sheet shall state that part of the assets has been so deposited, and, if any such part forms part of the life insurance fund, shall show the amount thereof and the place where it is deposited. Where any combined balance-sheet is issued by an insurer for any purpose, the information required by this regulation shall be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance-sheet.

6. There shall be appended to the balance-sheet a statement in Form AA as set out in Part II of this Schedule showing the market value and the book value of the assets.

7. Every balance-sheet shall contain the following certificates, namely:—

(a) a certificate signed by the same persons as are required by this Act to sign the balance-sheet explaining how the values as shown in the balance-sheet of the Investments in Stocks and Shares have been arrived at, and how the market value thereof has been ascertained for the purpose of comparison with the values so shown;

(b) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and signed also, so far as respects the value of any items shown in the balance-sheet under the heading of "Reversions and Life Interests", by an actuary, certifying that the values of all the assets have been reviewed as at the date of the balance-sheet, and that in their belief the assets set forth in the balance-sheet are shown in the aggregate at amounts

not exceeding their realisable or market value under the several headings—"Loans", "Reversions and Life Interests", "Investments", "Agents Balances and Outstanding Premiums", "Interest Dividends and Rents outstanding", "Interest Dividend and Rents accruing but not due", "Amounts due from other Persons or Bodies carrying on Insurance Business", "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts"

Provided that if the persons signing the certificate are unable to certify that the assets set forth in the balance-sheet are so shown as aforesaid, a full explanation of the bases upon which the values shown in the balance-sheet have been assessed shall be given in the certificate ;

(c) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and by the auditor certifying that no parts of the assets of the life insurance fund has been directly or indirectly applied in contravention of the provisions of this Act relating to the application and investment of life insurance funds ; and

u) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance-sheet) certifying—

(i) that he has verified the cash balances and the securities relating to the insurer's loans, reversions and life interests, and investments ;

(ii) to what extent, if any, he has verified the investments and transactions relating to any trusts undertaken by the insurer as trustee ; and

(iii) in the case of a combined balance-sheet that he has audited the balance-sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance-sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance-sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance-sheet.

8. If the values shown in the balance-sheet in respect of "Holdings in Controlled Companies" or "House Property (a) in India (b) out of India" have been increased since the last previous balance-sheet, the certificate required by paragraph (b) of the last foregoing regulation shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings in controlled companies, to increased profits, and shall contain an explanation of the reason therefor.

9. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely :—

(a) "combined balance-sheet" includes any combined statement made by an insurer of assets and liabilities in the form of a balance-sheet which includes the assets and liabilities of any other insurer ;

(b) "controlled company" means any company over the policy or management of which the insurer has power directly or indirectly to exercise decisive influence ; and

(c) "market value" means as respects any asset the market value thereof as ascertained from published market quotations, or, if there be no such value, its fair value as between a willing buyer and a willing seller.

FORMS—
FORM A.
Form of Balance-Sheet
of

Balance-Sheet

	Life and Annuity Business. (1)	Other Classes of Business. (2)*		Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
Shareholders' Capital (each class to be stated separately)			Loans :			
Authorised :			On Mortgages of property within ~~British~~ <i>India Mysore</i>			
.....Shares of Rs. each Rs.			On Mortgages of property outside ~~British~~ <i>India Mysore</i>			
Subscribed :			On Security of municipal and other public rates			
.....Shares of Rs. each Rs.			On Stocks and Shares			
Called up :			On Insurer's policies within their surrender value			
.....Shares of Rs. each Rs.			* * * * *			
Less Unpaid calls. Rs.			On Personal security			
Reserve or Contingency Accounts (a) :			To ~~Controlled~~ Companies (other than Reversionary) (f)			
Investment Reserve Account			Reversions and Life Interests :			
Profit and Loss Appropriation Account Balance.			Reversions and Life Interests purchased			
Balances of Funds and Accounts :			Loans on Reversions and Life Interests			
Life Insurance Fund			Debentures and Debenture Stocks of ~~Controlled~~ <i>Controlled</i> Reversionary Companies (f)			
Fire Insurance Business Account			Ordinary Stocks and Shares of ~~Controlled~~ <i>Controlled</i> Reversionary Companies (f)			
~~Marine Insurance Business Account~~			Loans to ~~Controlled~~ <i>Controlled</i> Reversionary Companies (f)			
Accident and Miscellaneous Insurance Business Account			Investments :			
Other accounts (if any) to be specified			Deposit with the ~~Reserve Bank of India~~ <i>Bank of India</i>			
Pension or Superannuation Accounts (b)			(Securities to be specified)			
			<i>Santhosh Kumar Singh</i>			

THE GAZETTE OF INDIA, AUGUST 28, 1937.

Subsidiary
Subsidiary
Subsidiary
Subsidiary

Debenture Stock per cent.				Indian Government Securities ..	
Loans and Advances (c)				Provincial Government Securities ..	
Bills Payable (c)				British and Colonial Government Securities ..	
Estimated Liability in respect of outstanding claims, whether due or intimated (d) ..				Foreign Government Securities ..	
Annuities due and unpaid (d)				Indian Municipal * * Securities ..	
Outstanding Dividends				British and Colonial Securities ..	
Amounts due to Other Persons or Bodies carrying on Insurance Business (c)				Foreign Securities ..	
Sundry Creditors (including outstanding and accruing expenses and taxes) (c)				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the Indian Government ..	
Other sums owing by the insurer (particulars to be given) (c)				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the British or any Colonial Government ..	
Contingent Liabilities to be specified (e) ..				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by any Foreign Government ..	
				Debentures of any railway in India ..	
				Debentures of any railway out of India ..	
				Preference or guaranteed Shares of any railway in India ..	
				Preference or guaranteed Shares of any railway out of India ..	
				Railway Ordinary Stocks (a) in India (b) out of India ..	
				Other Debentures and Debenture Stock (a) in India (b) out of India ..	
				Other guaranteed and Preference Stocks and Shares (a) in India (b) out of India ..	
				Other Ordinary Stocks and Shares (a) in India (b) out of India ..	
				Holdings in Controlled Companies (f) ..	
				House property (a) in India (b) out of India ..	
				Freehold and Leasehold ground rents and rent charges ..	
				Agent's Balances * * ..	
				Outstanding Premiums (g) ..	
				Interest, Dividends and Rents outstanding (d) ..	
				Carried over ..	

MS. The following investment will be drafted after orders are passed regarding the securities to be included in the term "approved securities", in which investment are to be made under the Regulation.

FORM A—contd.

Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
			Brought forward		
			Interest, Dividends and Rents accruing but not due (d)		
			Amounts due from Other Persons or Bodies carrying on Insurance Business (h)		
			Sundry Debtors (i)		
			Bills Receivable		
			Cash:		
			At Bankers on Deposit Account		
			At Bankers on Current Account and in hand		
			At Call and Short Notice (j)		
			Other Accounts to be specified (k)		

* Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).

Notes.

- (a) The Reserves or Contingency Accounts must be separately stated.
- (b) If the insurer has not full and unrestricted control of the assets constituting the Pension or Superannuation Accounts, either those Accounts and the assets and liabilities relating thereto must be omitted from the balance-sheet or the assets of which the insurer has not such control must be clearly indicated on the face of the balance-sheet.
- (c) If the insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance-sheet.
- (d) These items are or have been included in the corresponding items in the Revenue or Profit and Loss Account. Outstanding and accruing interest, dividends and rents must be shown after deduction of income-tax or the income-tax must be provided for amongst the liabilities on the other side of the balance-sheet.
- (e) Such items as amount of liability in respect of bills discounted, uncalled capital of controlled companies, uncalled capital of other investments, etc., must either be shown in their several categories under the heading "Contingent Liabilities" or the appropriate items on the assets side must be set out in such detail as will clearly indicate the amount of the uncalled capital.
- (f) As respects life and annuity business full particulars of holdings in and loans to controlled companies must be stated, giving the name of each company, the number and description of each class of shares held, the amounts paid up thereon, and the value at which the holdings in each company stand in the balance-sheet.
- (g) Either this item must be shown net or the commission must be provided for amongst the liabilities on the other side of the balance-sheet.
- (h) Loans or advances to or from controlled companies must not be shown under this heading, but under the separate appropriate headings provided, unless they are of a temporary character in respect of current transactions which are cleared within three months of the date of the balance-sheet.
- (i) Amounts due from directors and officers must be shown separately.
- (j) No amounts must be entered under this heading unless fully secured. If not fully secured the amounts must be included under the heading "Sundry Debtors".
- (k) Under this heading must be included such items as the following, which must be shown under separate headings suitably described: office furniture, goodwill, preliminary, formation and organisation expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written off in future years, balance being loss on Profit and Loss Appropriation Accounts, etc. The amounts included in the balance-sheet must not be in excess of cost.

(L) Under the head Other Accounts (if any) to be specified on the left hand side five, readied from the Staff and their contribution towards the provident fund, if any, should be shown under

FORM AA.

Classified Summary of the Indian Assets of the.....

Company on

19

Class of Asset.	Book value as per (a) below.	Market- value as per (b) below.	Remarks as per (c) below.
	Rs.	Rs.	
<i>Securities of Govt of Mysore</i> (1) Government of India Securities			
<i>Securities and debentures issued by District board and other local bodies and</i> (2) Indian Treasury Bills <i>guaranteed by Government</i>			
(3) Indian Provincial Government Securities <i>Other approved securities</i>			
(4) Indian Municipal Port and Improvement Trust Securities including Debentures.			
(5) Debentures of Indian Railways			
(6) Guaranteed and Preference Shares of Indian Railways.			
(7) Annuities of Indian Railways			
(8) Ordinary Shares of Railways in India			
(9) Other Debentures of concerns in India			
(10) Other Guaranteed and Preference Shares of concerns in India.			
(11) Other Ordinary Shares of concerns in India.			
(12) Loans on the Company's policies effected in India and within their surrender value.			
(13) Loans on Mortgage of property in India <i>and outside Mysore and outside</i>			
(14) Loans on Personal Security to persons domiciled and resident in India <i>Mysore Mysore</i>			
(15) Other loans granted in India (particulars to be stated). <i>and outside Mysore and outside</i>			
(16) Land and House Property in India <i>Mysore and outside</i>			
(17) Cash on Deposit in banks in India <i>Mysore and outside</i>			
(18) Cash in Hand and on current account in banks in India <i>Mysore & outside</i>			
(19) Agents' balances and outstanding premiums.			
(20) Interest, dividends and rents either outstanding or accrued but not due.			
(21) Other assets in India (to be specified) <i>Mysore & outside</i>			

The statement shall show—

- the value for which credit is taken in the balance-sheet for each of the abovementioned classes of assets,
- the market value of such of the abovementioned classes of assets as has been ascertained from published quotations after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance-sheet,
- how the value of such of the abovementioned classes of assets as has not been ascertained from published quotations has been arrived at, and
- the rates of exchange at which the values of the assets other than in rupee currency have been converted into rupees.

The market values need not be shown separately where they are not less than the book values and a certificate to that effect is appended to the statement.

No amounts on account of any of the following items may be entered in the statement:—

Goodwill.

Preliminary, formation, organisation or development expenses.

Commission or discount on shares or debentures issued.

Commuted Commission.

Expenditure carried forward to be written off in future years.

THE SECOND SCHEDULE.

(See section 107)

Regulations and Forms for the preparation of Profit and Loss Accounts.

PART I.

Regulations.

1. The items on the income side of the Profit and Loss Account and Profit and Loss Appropriation Account must relate to income, whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.
2. Deductions from Interest, Dividends and Rents to be shown in respect of income-tax must include all amounts in respect of ~~British Indian~~ income-tax whether or not it has been or is to be deducted at source or paid direct.
3. The Interest, Dividends and Rents, *less* income-tax thereon shown in the Revenue Accounts for any classes of business other than life insurance business, including annuity business may, if the insurer so desires, be included with the corresponding items in the Profit and Loss Account.

FORM C.

Form of Profit and Loss Appropriation Account.

Profit and Loss Appropriation Account of for the year ended 19

	Rs. A. P.	
Balance being loss brought forward from last year		Balance brought forward from last year Rs.
Balance being loss for the year brought from Profit and Loss Account (as in Form B)		Less—Dividends since paid in respect of last year (to be specified and if “free of tax” to be stated) Rs.
Dividends paid during the year on account of the current year (to be specified and if “free of tax” to be so stated) . . .		
Transfers to any particular Funds or Accounts (details to be given)		Balance for the year brought from Profit and Loss Account (as in Form B)
Balance at end of the year as shown in the Balance-Sheet		Balance being loss at end of the year as shown in the Balance-Sheet

THE THIRD SCHEDULE.

(See section 19.) //

Regulations and Forms for the preparation of Revenue Accounts.

PART I.

Regulations.

1. Form D is, as set out in Part II of this Schedule, appropriate for life insurance business, but a separate revenue account must be prepared for every class of business in respect of which the insurer is required to maintain a separate account.

2. Form F is, as set out in Part II of this Schedule, appropriate for fire insurance business. A separate Revenue Account in the same form must be prepared for accident and miscellaneous insurance including workmen's compensation and motor car insurance. ~~Form E is, as set out in Part II of this Schedule, appropriate for marine insurance business.~~

3. If any combined revenue account is for any purpose issued by an insurer it must be in accordance with the forms specified in this Schedule and must clearly show on the face thereof that it is a combined revenue account, and must set out fully the name of every insurer required to make separate returns under this ~~Act~~ whose revenue and expenditure have been included therein; if the revenue and expenditure of any person not being an insurer are included in a combined revenue account, the fact must be stated thereon.

4. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

5. Re-insurance premiums whether on business ceded or accepted, are to be brought into account gross (i.e., before deducting commissions) under the head of premiums.

6. As respects life insurance business, ~~a statement in Form DD as set forth in Part II of this Schedule must be appended to every revenue account relating to that class of business showing the details provided for in that form.~~

7. The following information shall be supplied in addition to the revenue account, namely, the gross premium written in ~~India~~ for life, fire, ~~marine~~ and accident and miscellaneous insurance business.

8. Any office premises which form part of the assets of a life insurance fund must be treated as an interest earning investment, and accordingly, in the Revenue Account for life insurance business a fair rent for the premises must be included under the heading "Interest, Dividends and Rents" and in the Revenue Account for every class of business for which the premises are used proper charges for the use thereof must be included under the heading "Expenses of Management":

~~Provided that this regulation shall not apply where the insurer carries on insurance business of one class only or carries on only life insurance business.~~

~~9. The expenses of management charged to the life insurance Revenue Account must not exceed the amount of such expenses properly referable to that class of business and, in particular, no such account must be charged with more than a fair sum for the use of any office premises having regard to the extent to which they are used for the purposes of that class of business.~~

10. Deductions from Interest, Dividends and Rents in respect of income-tax must include all income-tax whether or not it has been or is to be deducted at source or paid direct; the income-tax to be shown as so deducted in the life insurance Revenue Account is ~~British Indian, United Kingdom, Foreign and Dominion~~ income-tax, but the income-tax to be shown as deducted in Revenue Accounts or any other classes of business is ~~British Indian~~ income-tax only.

PART II.

FORMS.

FORM D.

Form of Revenue Account applicable to Life Insurance Business.

Revenue Account of _____ for the year ended 19 _____
in respect of _____ Business.

	Business within British India.	Business out of British India.	Total		Business within British India.	Business out of British India.	Total
	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>		<i>Rs.</i>	<i>Rs.</i>	
*Claims under Policies (including provision for claims due or intimated) less Re-insurances.				Balance of Fund at the beginning of the year			
By death ..				*Premiums, less Re-insurances ..			
By maturity ..				(i) First year premiums			
*Annuities, less Re-insurances ..				(ii) Renewal premiums			
*Surrenders (including Surrenders of Bonus), less Re-insurances ..				(iii) Single premiums.			
*Bonuses in cash, less Re-insurances ..				*Consideration for Annuities Granted, less Re-insurances (c) ..			
*Bonuses in Reduction of Premiums, less Re-insurances ..				Interest, Dividends and Rents	<i>Rs.</i>		
*Commission (less that on Re-insurances) ..				Less—Income-tax thereon (d)			
*Expenses of Management (e) ..				Registration Fees			
Bad Debts ..				Other Income (to be specified) ..			
United Kingdom, British Indian, Dominion and Foreign * * Taxes ..				Loss transferred to Profit and Loss Account ..			
and other Taxes ..				Transferred from Appropriation Account			
*Other Expenditure (to be specified) ..							
*Profit transferred to Profit and Loss Account							
Balance of Fund at the end of the year as shown in the Balance-Sheet ..							

Notes.

(a) In the case of an insurer having his head office in British India, these columns apply only to business the premiums in respect of which are payable outside British India.

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately.

(c) All single premiums for annuities whether immediate or deferred, must be included under this heading.

(d) British Indian, United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, British Indian, Foreign and Dominion taxes, other than those shown under this item.

* Where the account is furnished under the provisions of clause (b) of sub-section (2) of section 15 of the Insurance Act, 1937, by an insurer to whom that section applies, separate figures for business within British India and business out of British India must be given against the items marked with an asterisk. Against all other items the total amount for the business as a whole may be given.

his principal place of business outside
 Mysore, expenses of management for business
 out of Mysore and the total business need not
 be split up into sub-heads, if they are not
 so split up in his own country.

(2) ~~7~~ 12:-

Expenses of management (6) :-

- (1) Commission and allowances
- (2) Salaries, etc. (Other than to agents
 and those contained in item no. (1))
- (3) Travelling expenses
- (4) Directors' fees
- (5) Auditors' fees
- (6) Law charges
- (7) Advertisement
- (8) Printing and Stationery
- (9) Other expenses of management
 (account to be specified)
- (10) Other payments (account to be
 specified)
- (11) Rents for offices belonging
 and occupied by the
 insured
- (12) Rents of other offices
 occupied by the

FORM DD.

Classified statement of life-insurance policies of the Company, for the year ending 19

	New life insurance business in respect of which a premium has been paid in the year.				Total life insurance business in force at end of the year.		Premium income for which credit has been taken in the revenue account.
	Number of policies.	Sums insured and annuities per annum.	Single premiums (including consideration for immediate annuities and all other premiums paid at the outset where no subsequent premium is payable).	Yearly renewal premium income.	Number of policies.	Sums insured with bonuses and annuities per annum.	
		Rs.	Rs.	Rs.		Rs.	Rs.
Ordinary policies.							
In India <i>Rs. 1000</i>							
Out of India <i>Rs. 1000</i>							
<i>Rs. 1000</i>							
Total							
Annuity contracts, etc.							
In India <i>Rs. 1000</i>							
Out of India <i>Rs. 1000</i>							
<i>Rs. 1000</i>							
Total							
Group insurance policies.							
In India <i>Rs. 1000</i>							
Out of India <i>Rs. 1000</i>							
<i>Rs. 1000</i>							
Total							

NOTE—Contn. Sheet.

* If there be no minimum amount guaranteed to be paid on the happening of the contingency ~~covered~~ against, the column may remain blank

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[App. F, III—2]

form DDD

Additions to and deductions from policies of the
policies of the

San Francisco, Calif

Serial 194d

Dividing insurance policies insuring money to be paid on death.		Dividing insurance policies insuring money to be paid on marriage.		And no fee for each other class of dividing insurance business for which a separate revenue account is submitted
No	* Minimum sum insured guaranteed	No	* Minimum sum insured guaranteed	
4	Rs 10	4	Rs 10	12

Discontinued during year

- (1) Policies at beginning of year
 - (2) New policies issued
 - (3) Old policies renewed
 - (4) Old policies changed and increased
 - (5) Bonus additions allotted
- Discontinued during year
- (6) By death
 - (7) By insurance or the happening of contingencies covered against other than death ..
 - (8) By expiry of term under temporary insurance ..
 - (9) By surrender of policy ..
 - (10) By surrender of Bonus ..
 - (11) By forfeiture or lapse ..
 - (12) By change and decrease ..
 - (13) By being not taken up ..

total dis. continued
risk at the end of year

WD 0284-GPB-30,000-13-5-37

FORM ~~K~~ DDDD

Particulars of the policies forfeited or lapsed in the last financial year under review, less those revised and reinstated for full benefits, classified according to the year in which they were issued.

Financial year in which the policies were issued.	Number of policies forfeited or lapsed.	Sum assured under policies forfeited or lapsed.
Year ending 19 , being the year under review 		
Year ending 19 , being the year previous to that under review 		

And so on, the number of and sum insured under policies forfeited or lapsed in the last financial year under review being stated after classification according to each of the preceding years in which they were issued.

A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in Mysore shall give the information required in the form separately for business transacted in Mysore and business transacted outside Mysore and the insurers having their principal place of business outside Mysore, will furnish information regarding business transacted in Mysore and —

										Ordinary life insurance policies insuring money to be paid on death or survival.	Annuities.		Dividing insurance policies insuring money to be paid on death.	Dividing insurance policies insuring money to be paid on marriage.	And so on for each other class of dividing insurance business for which a separate revenue account is submitted.				
										No.	Sum assured.	Reversionary bonus additions.	No.	Annuity per annum.	No.	*Minimum sum insured guaranteed.	No.	*Minimum sum insured guaranteed.	
											Rs.	Rs.		Rs.		Rs.		Rs.	
(1) Policies at beginning of year																			
(2) New policies issued																			
(3) Old policies revived																			
(4) Old policies changed and increased																			
(5) Bonus additions allotted																			
Total																			
Discontinued during year.																			
(6) By death																			
(7) By survival or the happening of the contingencies insured against other than death																			
(8) By expiry of term under temporary insurances																			
(9) By surrender of policy																			
(10) By surrender of bonus																			
(11) By forfeiture or lapse																			
(12) By change and decrease																			
(13) By being not taken up																			
Total discontinued																			
Total existing at end of year																			

* If there be no minimum amount guaranteed to be paid on the happening of the contingency insured against, the column may remain blank.

FORM F.

Form of Revenue Account applicable to Fire Insurance Business and to Accident and Miscellaneous Insurance Business including Workmen's Compensation and Motor Car Insurance Business.

Revenue Account of _____ for the year ended 19 _____
in respect of _____ Business.

	Rs.		Rs.
*Claims under Policies, less Re-insurances (a)(d):		Balance of Account at beginning of the year:	
Paid during the year .. Rs.		Reserve for Unexpired Risks .. Rs.	
Total estimated liability in respect of outstanding claims at end of the year whether due or intimated .. Rs.		Additional Reserve (if any) .. Rs.	
Total ..			
Less—Outstanding at end of previous year (b) .. Rs.		*Premiums, less Re-insurances (d)	
		Interest, Dividends and Rents .. Rs.	
		Less—Income-tax thereon .. Rs.	
*Commission		*Other Income (to be specified) ..	
*Expenses of Management (c)		Loss transferred to Profit and Loss Account	
*Bad Debts		Transferred from Appropriation Account ..	
<i>British Insurance Other</i> United Kingdom, Foreign and Dominion Taxes			
*Other Expenditure (to be specified) ..			
Profit transferred to Profit and Loss Account ..			
Balance of Account at the end of the year as shown in the Balance-Sheet:			
Reserve for Unexpired Risks, being per cent. of premium income of year .. Rs.			
Additional Reserve (if any) .. Rs.			

Notes.

- (a) This heading must include all expenses directly incurred in settling claims, * . * . *
- (b) If in any year the claims actually paid and those still unpaid at the end of that year in respect of the previous year or years are in excess of the amount included in the previous year's Revenue Account as provision for outstanding claims, then the amount of such excess must be shown in the Revenue Account.
- (c) If any sum has been deducted from this item and entered on the assets side of the balance-sheet the amount so deducted must be shown separately.
- (d) Where the account is furnished under the provisions of section 13 of the Insurance Act, 1937, separate figures for claims paid to claimants in British India and claimants outside British India, and for premium derived from business effected in British India and effected outside British India must be given. *Imp 10*
- * Where the account is furnished under the provisions of clause (b) of sub-section (2) of section 13 of the Insurance Act, 1937, by an insurer to whom that section applies, separate figures for business within British India and business out of British India must be given against the items marked with an asterisk. Again all other items the total amount for the business as a whole may be given.

(e) All the amount received by the insurer directly or indirectly whether from his head office or from any other source outside Mysore shall also be shown separately in the Revenue Account, except such sum as properly appertain to the Capital Account.

THE FOURTH SCHEDULE.

(See section 127 13)

Regulations for the preparation of Abstracts of Actuaries' Reports and Requirements applicable to such Abstracts

PART I.

Regulations.

1. Abstracts and Statements must be so arranged that the numbers and letters of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

* * * * *

2. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirement of paragraph 3 of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

3. (1) The average rate of interest yielded in any year by the assets constituting a life insurance fund shall, for the purposes of paragraph 4 of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life insurance fund during the year after deduction of income-tax (any refund of income-tax made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life insurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deducting from the aggregate of those two sums an amount equal to one-half of the interest of the year.

(2) For the purposes of the calculation aforesaid either

- (a) all profits and income arising during the year from sums invested in reversions shall be included in the interest credited to the life insurance fund during the year; or
- (b) such portion of the life insurance fund as is invested in the purchase of reversions, and the profits and income arising therefrom, shall be excluded from the calculation; but in that case a statement must be added to the information required under the said paragraph 5, showing in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the five years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

(3) The information given in accordance with the requirements of the said paragraph 4, shall show clearly by which of the methods hereinbefore in this regulation mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

4. Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes thereof and of the valuation data.

Provided that in the case of an abstract prepared on behalf of an insurance company, if the actuary who signs the abstract is not a permanent officer of the company, the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of the company and the actuary shall insert on the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely

"extra premium" means a charge for any risk not provided for in the minimum contract premium;

"inter-valuation period" means, as respects any valuation, the period to the valuation date of that valuation from the valuation date of the last preceding valuation in connection with which an abstract was prepared under this Act or under the enactments repealed

~~by this Act,~~^{Regulation} or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business ;

“ maturity date ” means the fixed date on which any benefit will become payable either absolutely or contingently ;

“ net premiums ” means as respects any valuation the premiums taken credit for in the valuation ;

“ premium term ” means the period during which premiums are payable ;

“ valuation date ” means as respects any valuation the date as at which the valuation is made.

PART II.

Requirements applicable to an Abstract in respect of Life Insurance Business.

The following tabular statements shall be annexed to every abstract prepared in accordance with the requirements of this Part of this Schedule, namely :—

- (a) a Consolidated Revenue Account, in the Form G annexed to this Part of this Schedule, for the inter-valuation period (except that it shall not be necessary to prepare such an account in respect of any class of business so long as the insurer deposits annually with the Superintendent of Insurance an abstract in respect of that class of business) ; and
- (b) a Summary and Valuation in the Form H annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates ; and
- (c) a Valuation Balance-Sheet in the Form I annexed to this Part of this Schedule ; and
- (d) a statement in Form J annexed to this Part of this Schedule of the additions to and deductions from the number of policies and the sums insured thereunder for ~~each class of~~ life insurance ; and,
- (e) a statement in Form K annexed to this Part of this Schedule of particulars of policies forfeited or lapsed under each class of life insurance ;

Every such abstract shall show :—

1. The valuation date.

2. The general principles and full details of the methods adopted in the valuation of each of the various classes of insurances and annuities shown in said Form H, including statements on the following points :—

- (a) whether the principles were determined by the instruments constituting the company or by its regulations or byelaws or how otherwise ;
- (b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity dates have been treated for the purpose of the valuation ;
- (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation ;
- (d) the rate of bonus taken into account where by the method of valuation definite provision is made for the maintenance of a specific rate of bonus ;

(e) the method of allowing for—

- (i) the incidence of the premium income ; and
- (ii) premiums payable otherwise than annual

(f) the methods by which provision has been made for the following matters, namely :—

- (i) the immediate payment of claims ;
 - (ii) future expenses and profits in the case of limited payment and paid-up policies ;
 - (iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise ; and whether any reserves have been made for the matters aforesaid ;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and if so what steps, if any, have been taken to eliminate such asset ;
- (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with ; and
- (i) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange

The table of mortality used, and the rate of interest assumed, in the valuation.

The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, separately specified in respect of insurances with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits.

5. The average rates of interest yielded by the assets, whether invested or uninvested, constituting the life insurance fund for each of the * years covered by the valuation date.

6. The basis adopted in the distribution of profits as between the insurer and policy owners, and whether such basis was determined by the instruments constituting the company, or by its regulations or byelaws, or how otherwise.

7. The general principles adopted in the distribution of profits among policy owners, including statements on the following points, namely :—

- (a) whether the principles were determined by the instruments constituting the company, or by its regulations or byelaws, or how otherwise ;
- (b) the number of years' premiums to be paid, period to elapse and other conditions to be fulfilled before a bonus is allotted ;
- (c) whether the bonus is allotted in respect of each year's premium paid, or in respect of each completed calendar year or year of assurance or how otherwise ; and
- (d) whether the bonus vests immediately on allocation, or, if not, the conditions of vesting.

8. (1) The total amount of profits arising during the inter-valuation period, including profits paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of such profits—

- (a) to interim bonus paid ;
- (b) among policy owners with immediate participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;
- (c) among policy owners with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

- (d) among policy owners in the discounted bonus class, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
 - (e) to the insurer, or in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated);
 - (f) to every reserve fund or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated);
 - (g) as carried forward unappropriated.
- (2) Specimens of bonuses allotted as at the valuation date to policies for one thousand rupees—
- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years, and upwards at intervals of ten years; and
 - (b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years;

together with the amounts apportioned under the various manners in which the bonus is receivable.

9. A statement in Form ~~F~~^K annexed to this Part of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted in the valuation, and specimen minimum surrender values in respect of whole life insurance policies for Rs. 1,000 with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, sixth, seventh, eighth, ninth, tenth, fifteenth and twentieth annual premium; with similar specimen policy reserve values and specimen surrender values in respect of whole life insurance policies subject to premiums payable for 20 years and of endowment insurance policies maturing at age 55.

10. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident used for the purpose.

FORM G

Consolidated Revenue Account of
and ending

for years commencing

<i>Premiums within Mysore</i>	<i>Total Rs.</i>	<i>Premiums within Mysore</i>	<i>Total Rs.</i>
Claims under Policies (including provision for claims due or intimated) less Re-insurances—		Balance of Life Insurance Fund at the beginning of the period ..	
By death		Premiums, less Re-insurances ..	
By maturity		Consideration for Annuities Granted, less Re-insurances (b) ..	
Annuities, less Re-insurances ..		Interest, Dividends and Rents Rs.	
Surrenders (including Surrenders of Bonuses) less Re-insurances ..		Less—Income-tax thereon (c) Rs.	
Bonuses in Cash, less Re-insurances ..			
Bonuses in Reduction of Premiums, less Re-insurances		Registration Fees	
Commission (less that on Re-insurances)		Other Income (to be specified) ..	
<i>* Expenses of management (a)</i>		Loss transferred to Profit and Loss Account	
<i>Agents' and Other</i>		Transferred from Appropriation	
<i>Canvassing allowance</i>			
<i>Salaries, etc. (Other than to agents and canvassers)</i>			
<i>Travelling expenses</i>			
<i>Directors' fees</i>			
<i>Auditors' fees</i>			
<i>Medical fees</i>			
<i>Law charges</i>			
<i>Advertising</i>			
<i>Printing and Stationery</i>			
<i>Other expenses of management (Account and other to be specified)</i>			
<i>Other payments (Accounts to be specified)</i>			
<i>Rents for offices belonging to and occupied by the company</i>			
<i>Rents of other offices occupied by the company</i>			
	<i>Rs.</i>		<i>Rs.</i>

Notes.

(a) If any sum has been deducted from this item and entered on the assets side of the balance-sheet the amount so deducted must be shown separately.

(b) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(c) *Mysore, British Indian* *Other* *British Indian, United Kingdom, Foreign and Dominion* income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for *United Kingdom, British Indian, Foreign and Dominion* taxes, other than those shown under this item.

(d) In the case of an insurer having his principal place of business outside Mysore, expenses of management for business out of Mysore and the total business need not be split up into several sub-heads if they are not so split up in his own country.

FORM H.
Summary and Valuation of the Policies of as at

Description of Transactions.	Particulars of the Policies for Valuation.					Valuation.			
	Number of policies.	Sums Assured.	Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Net Liabilities.
21									
DIVISION I. Insurances.									
Group A.—									
With immediate participation in profits ..	..	..	..	..	..				
For whole term of life ..	..	..	..	..	..				
Other classes (to be specified) ..	..	..	..	..	..				
Extra premiums ..	..	..	..	..	..				
Total Insurances ..	..	..	..	..	..				
Deduct—Re-insurances ..	..	..	..	..	..				
Net insurances ..	..	..	..	..	..				
Group B.—									
With deferred participation in profits ..	..	..	..	..	..				
For whole term of life ..	..	..	..	..	..				
Other classes (to be specified) ..	..	..	..	..	..				
Extra premiums ..	..	..	..	..	..				
Total Insurances ..	..	..	..	..	..				
Deduct—Re-insurance ..	..	..	..	..	..				
Net insurances ..	..	..	..	..	..				
Group C.—									
Under discounted bonus systems ..	..	..	..	..	..				
For whole term of life ..	..	..	..	..	..				
Other classes (to be specified) ..	..	..	..	..	..				
Extra premiums ..	..	..	..	..	..				
Total insurances ..	..	..	..	..	..				
Deduct—Re-insurances ..	..	..	..	..	..				
Net insurances ..	..	..	..	..	..				
Total insurances with profits ..	..	..	..	..	..				

FORM H—*contd.*

Summary and Valuation of the Policies of as at

19

	Particulars of the Policies for Valuation.					Valuation.			
	Number of policies.	Sums Assured.	Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Sums Assured and Bonuses.	Office Yearly Premiums.	Net Yearly Premiums.	Net Liabilities.
23	6	5	5	6	6	6	6		
Group D.—									
Without participation in profits									
For whole term of life									
Other classes (to be specified)									
Extra premiums									
Total insurances									
Deduct—Re-insurances									
Net insurances									
Total insurances without profits									
Total of the insurances shown in all groups									
Deduct—Re-insurances									
Net amount of insurances									
Adjustments, if any (to be separately specified)									

FORM J.

Additions to and deductions from policies of the

Company for the year ending

19

	Ordinary life insurance policies insuring money to be paid on death or survivorship.						Annuities.		~~Dividing insurance policies insuring money to be paid on death.~~		~~Dividing insurance policies insuring money to be paid on marriage.~~		~~And so on for each other class of dividing insurance business for which a separate revenue account is submitted.~~
	No.	Sum assured.	Reversionary bonus additions.	No.	Annuity per annum.	No.	*Minimum sum insured guaranteed.	No.	*Minimum sum insured guaranteed.				
		Rs.	Rs.		Rs.		Rs.		Rs.		Rs.		
(1) Policies at beginning of year	..	..	..	..	..								
(2) New policies issued	..	..	..	..	..								
(3) Old policies revived	..	..	..	..	..								
(4) Old policies changed and increased	..	..	..	..	..								
(5) Bonus additions allotted	..	..	..	..	..								
Total	..												
Discontinued during year.													
(6) By death	..	..	..	..	..								
(7) By survivorship or the happening of the contingencies insured against other than death	..	..	..	..	..								
(8) By expiry of term under temporary insurances	..	..	..	..	..								
(9) By surrender of policy	..	..	..	..	..								
(10) By surrender of bonus	..	..	..	..	..								
(11) By forfeiture or lapse	..	..	..	..	..								
(12) By change and decrease	..	..	..	..	..								
(13) By being not taken up	..	..	..	..	..								
Total discontinued	..												
Total existing at end of year	..												

* If there be no minimum amount guaranteed to be paid on the happening of the contingency insured against, the column may remain blank.

Particulars of the policies forfeited or lapsed in the last financial year under review, less those revised and reinstated for full benefits, classified according to the year in which they were issued.

Financial year in which the policies were issued.	Number of policies forfeited or lapsed.	Sum assured under policies forfeited or lapsed.
Year ending 19 , being the year under review		
Year ending 19 , being the year previous to that under review		
And so on, the number of and sum insured under policies forfeited or lapsed in the last financial year under review being stated after classification according to each of the preceding years in which they were issued.		

A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

FORM ~~E~~ K

Specimen policy reserve values and minimum surrender values under a

policy for Rs. 1,000.

Number of premiums paid.	Age at entry 20.		Age at entry 30.		Age at entry 40.		Age at entry 50.	
	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
15.								
20.								

NOTE.—Items in this Form to be stated to the nearest rupee.

THE FIFTH SCHEDULE.

(See section ~~12~~) 13*Regulations for preparing statements of business in force and requirements applicable to such statements.*

PART I.

Regulations.

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by numbers and letters corresponding with those of the paragraphs of Part II of this Schedule.

2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.

3. Extra premium shown in the forms of Summary and Valuation prepared under the Fourth Schedule to this ~~Act~~ must not be included in statements prepared under this Schedule.

4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.

5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, name

- (a) "Annual loading" means the provision made for future expenses and profits;
- (b) "Extra premiums" means a charge for any risk not provided for in the minimum contract premium
- (c) "Net premiums" means the premiums taken credit for in the valuation in connection with which any statement is prepared and
- (d) "Valuation date" means as respects any valuation the date as at which the valuation is made.

PART II.

Requirements for statements applicable to Life Insurance Business.

The statements required to be prepared under this Part of this Schedule are as follows, namely:—

1. Statements, separately prepared in respect of policies with and without participation in profits, showing—

- (a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive; and
- (b) as respects endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive, but excluding policies under which the age at maturity exceeds 60.

2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits, showing in quinquennial groups—

- (a) as respects policies for the whole term of life—
 - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained;
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained; and

- (iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, either, the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or, the annual loading reserved for the remaining duration of the policies, grouped according to ages attained ;
- (b) as respects endowment insurance policies—
 - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation ; and
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of the valuation :

Provided that—

- (a) as respects endowment insurance policies which will reach maturity in less than five years, the information required by sub-paragraph (b) (i) of this paragraph must be given for each year instead of in quinquennial groups ; and
- (b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment insurance policies, or the corresponding net premiums, are grouped for the purposes of the valuation otherwise than according to the number of years payments remaining to be made, or, where the sums assured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of the sums assured under endowment insurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date.

3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily, during disability arising from sickness or accident, showing the total amount of the office premiums payable.

4. Statements as respects immediate annuities on single lives for the whole term of life, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of such annuities.

5. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65, and in the case of female lives, 55 and 60 ; the said statements must show the specimen reserve values which will be produced under the table of annual premiums in use for new policies, and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be produced, the like specimens of these must also be given.

6. Statements as respects any policies of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared, since the date on which the insurer began to carry on the class of business to which the statements relate, and the reserves for unexpired risks and outstanding claims.

THE SIXTH SCHEDULE.

(See section ~~46~~.) 55*Rule as to the valuation of the Liabilities of an Insurer in Insolvency or Liquidation.*

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall be calculated by the method and upon the basis to be determined by an actuary approved by the Court, and the actuary so approved shall, in determining as aforesaid, take into account—

- (a) the purpose for which such valuation is to be made,
- (b) the rate of interest and the rates of mortality and sickness to be used in valuation, and
- (c) any special directions which may be given by the Court.

The liabilities of an insurer in respect of current policies other than life policies shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

THE MYSORE REPRESENTATIVE ASSEMBLY

DASARA SESSION—OCTOBER, 1937.

STATEMENT OF GOVERNMENT BUSINESS TO BE PLACED BEFORE THE REPRESENTATIVE ASSEMBLY.

VI. Statement of General Principles of the Bill for the Control of Insurance Business in the State.

There is at present no legislation exclusively applicable to insurance companies carrying on business in Mysore, and they are governed by the provisions of the Mysore Companies Regulation. The control of the insurance business under the law relating to ordinary companies being admittedly unsatisfactory, the introduction of separate legislation to protect the interests of the insuring public has been under the consideration of the Government for some considerable time. Representations have also been received from time to time from public bodies and individuals suggesting early action on the lines of the British Indian enactment.

The law relating to insurance in British India is contained in Act V of 1912, which regulates Provident Insurance Societies, Act VI of 1912, which regulates Life Assurance Companies, and Act XX of 1928, which amended the latter in certain respects. This law was considered unsatisfactory and the Government of India attempted a comprehensive amendment of it in their Bill, published with notification dated 17th June 1925. This Bill, however, made no progress as the English law on which it had been based had itself been taken up for revision. The Committee appointed by the Board of Trade in England to make suggestions for improving the law completed its enquiry in 1927, but as this was not followed up by any legislation, the Government of India decided to proceed with the reform of insurance law. A Bill embodying the Government proposals was introduced in the Indian Legislative Assembly in the early part of this year and has since been passed by that body. *and is expected to become law shortly.*

In the framing of a Bill relating to Insurance in Mysore, ~~it is proposed to follow~~ the British Indian enactment ~~not merely in its general principles, but in its detailed arrangement and expression, wherever possible, as it is considered a matter of importance to have the law in Mysore as uniform as possible with the British Indian law, except where local circumstances demand a modification in substance. It is therefore proposed to include in one enactment both the insurance business and Provident Insurance Societies, the latter being dealt with in a separate part.~~

The main features of the proposed legislation in regard to insurance are (1) the registration of all concerns transacting insurance business of whatever kind in Mysore; (2) requirement of an initial deposit and a sufficient working capital with a view to eliminate companies which are inadequately financed; (3) full disclosure of the information required to ensure sound principles of finance and management; (4) restrictions in regard to investment of the funds of insurance companies; (5) ~~protection of policy holders from evasion of payment of moneys due under a policy on technical grounds~~; (6) prohibition of employment of Managing Agents in future and the early termination of existing Managing Agencies; *(5) prob*

In regard to Provident Insurance Societies, it is proposed to prohibit business on the dividing principle. A minimum working capital will be required and the principle of deposit applied. All schemes of insurance operated by a society will be subjected to actuarial examination; and periodical actuarial investigation into the financial condition of the societies will be required. Separate classes of business must be brought separately to account and a separate fund maintained in connection with each particular group of contingencies. Assets will be further protected by a provision requiring the investment in Government securities of a certain percentage of the total.

A. SUNDARARAJA RAO,
Secretary,
Mysore Representative Assembly.

Serial
No.

The main features of the ^{Bill} ~~proposed~~ ~~legislation~~ are (1) the registration of all concerns transacting insurance business of whatever kind in Mysore; (2) requirement of an initial deposit and a sufficient working capital with a view to eliminate companies which are inadequately financed; (3) full disclosure of the information required to ensure sound principles of finance and management; (4) restrictions in regard to investment of funds and periodical actuarial investigation for the ascertaining of the state of these funds; (5) licensing of agents to provide check on persons who are responsible for bringing about the policy contracts; (6) prohibition of business on the dividing principle; (7) prohibition of employment of Managing Agents in future and the early termination of existing Managing Agencies; ~~and~~ (8) provision of statutory right of the insured to sue and recover the claim in Mysore notwithstanding provisions in the contract to the contrary; and (9) protection of policyholders from evasion of payments

of moneys due under a policy on technical grounds.

In regard to Provident Insurance Societies in particular, special provision ^{has} been ~~introduced~~ ^{made} limiting the extent to which they may carry on insurance business and requiring all schemes to be certified by Actuaries regarding soundness before they are ~~undertaken~~ ^{undertaken}. Separate classes of business are required to be brought separately to account and a separate fund maintained in connection with each particular class of

Serial
No.Clause 3 Contd4
A

(1) That in clause 3 (2) (d) after the word and figure "Section 6" the words and figures or Section 96" be inserted

[Section 96 deal with the working capital of mutual insurance companies and cooperative insurance societies. This is similar to the last amendment]

5

That after sub-clause 3 (2) (d) the following clause be added as sub-clause (e), the ^{existing} ~~present~~ sub-clauses (e) and (f) being numbered (f) & (g)

"(e) In the case of an insurer having his principal place of business or domicile outside Mysore, a statement verified by an affidavit made by the principal officer of the insurer setting forth the requirements (if any) not applicable to nationals of the country in which such insurer is constituted, incorporated or domiciled which are imposed by the law or practice of ^{that} ~~the~~ country upon the nationals of the State as a condition of carrying on insurance business in that country."

[The insertion of this clause is considered necessary for the purpose of clause 62 of the Bill and of sub-clause (3) of this clause. This affords one of the means of securing information

Clause 3 came

concerning adverse discrimination against the
national groups.]

6. That for clause 3 (2) ^{as renumbered} (f) ~~the~~ following
clause be substituted, namely: -

"(f) A certified copy of the published
prospectus, if any, and of the Standard Policy
Form of the insurer and Statement of
the assured rate, ^{advantages,} terms and conditions to
be offered in connection with insurance
policies together with a certificate in connection
with life insurance business by an actuary
that such rates, ^{advantages,} terms and conditions are
workable and sound

Provided that in case of accident
and miscellaneous insurance business other
than workmen's compensation and motor
or insurance the above requirement regarding
prospectus form and Statement shall be
complied with only so far as prospectus
form and Statement may be available

[This substitution was effected in
the Indian Insurance Bill in the recognition
of the following factors: -

(1) Unless "Standard form" are put in

Serial
No.Clause 3 contd

it will mean probably dozens of forms which have to be sent to each company

(2) In the case of accident or fire insurance, there may be different policies depending on the situation of the property or the risk attaching to the insurance and as such the filing of standard forms can be insisted only in the case of life insurance companies.]

7 That in clause ³⁽²⁾ ~~(7)~~ as ~~per numbered (7)~~ for the letters and figure "Rs 100" the words "~~one~~ ^{rupees} hundred" be substituted

8 That in clause 3 (3)

(1) for the words "companies incorporated in Mysore" the words "national of the State" be substituted and

(2) for the words "relating to insurance" the words "relating to or applied to insurance" be substituted.

[The former is meant to widen the scope and the latter to make it clear that the above description referred to matters relating to insurance.]

Clause ~~3~~⁴ 3 can be

That in sub-clause 4 of clause 3 after
the word and figure 'Section 7' the words
and figures "or Section 97" be inserted

9

[The amendment is a purely
formal one. Section 7 deals with deposits in
regard to insurers and Section 97 deals
with deposits in regard to the special
class of insurers provided for in Chapter IV.]

That in sub-clause 3(5) for the words "under sub-section (4)" 9A
the words "under sub-section (3) or sub-section (4)" be substituted

Clause 4

Serial
No.clause 4 contd

or a mutual 'insurance company' be inserted and ~~again~~ for the words "policy of insurance", the words "policy of life insurance" be substituted.

[This is necessary in as much as mutual insurance companies, like cooperative life insurance societies deal mostly with men of limited means.]

(5) That at the end of sub-section 4(2), the following words be added, namely:-

for an aggregate sum of not less than rupees five thousand, under which an insurer pays or undertakes to pay a gross sum of rupees five hundred or less as an individual life.

[This is with a view to prevent an insurer from evading the intention of the original clause.]

(6) That in sub-section (4) (1) for the words "letters and figures" Rs 50 in the fifth line and "Rs 500 in the sixth line, the words "five rupees and rupees five hundred" respectively be substituted.

[This is with a view to keep conform with the wording of section 66 in part IV].

Clause 5

That in clause 5, in sub-clause (2), for the words "on the application of the second mentioned insurer and if called upon to do so by the Superintendent of Insurance" the words "if called upon to do so by the Superintendent of Insurance on the application of the second mentioned insurer" be substituted

11

[This is merely grammatical and makes it clear to whom the application has to be made.]

Clause 6

- (1) That in clause 6, after the word "no insurer" the words "incorporated after or be inserted;
- (2) That the words "or commences" in the first line of the clause, be omitted and
- (3) For the words "Sub-section 7" the words "Sub-section (4) of Section 7" be substituted

12

Clause 7

That in clause 7 in sub-clause (2) and in the proviso thereto for the words "not less than the same amount as the

13

Serial
No.

Clause 7 can be

second instalment" the words "not less than the minimum amount required as the second instalment" be substituted.

[The purpose is to avoid the possibility of the sub-clause and the proviso being interpreted as requiring that when a deposit of more than the legal minimum deposit is made once, thereafter on all occasions the depositor should be required to bring his subsequent deposit up to that figure. The purpose is more clearly expressed in the words now proposed.]

14

(1) That in clause 7 (c) for the words and figures incorporated after or commencing business in Mysore after the 31st day of December, 1937" the words and figures "neither incorporated before nor carrying on insurance business in Mysore before the 1st day of January 1938" be substituted.

[An insurer incorporated before the 1st of January 1938 but not starting business until after the 1st of January 1938, would as clause 7 now stands, come under both the sub-clauses 2 & 4. This amendment

clause) cannot
eradicate this oversight.]

(2) For the words "one third the balance" where they occur for the second time the word "one half the residue" be substituted.

[The word "balance" used twice in
not exactly the same significance leads
to some ambiguity. The amendment
proposed makes it clear that the amount
which an insurer has to deposit as a
third instalment is one half of the
balance.]

Serial
No.Clause 7 continued

bracket and figure " under sub-section (1) the words, ~~bracket and figure~~ " or sub-section (2) " be inserted.

[The object of the ^{first} amendment is to relieve the baupfster of paying interest when it has not been actually received from him. The second corresponds to the amendment no. 15.]

17

That in clause 7, sub-section (7), the words " and if the baupfster requires him to replace securities maturing for payment, shall " be omitted, and

To the sub-clause the following be added, namely

and the baupfster shall, if so requested by a depositor, invest in approved securities the whole or any part of a deposit made originally in cash or the whole or any part of cash received by the baupfster on sale of or on the maturity of securities lodged by the depositor

[As the Rule has been drafted, it gives power to the baupfster to require certain things being done. The object of the amendment is that that should not be left to the baupfster but the baupfster should do certain things

Clause 7 continued

[requested to do so by the depositor]

Clause 8

That in clause 8(1) for the words "nor shall it be liable to attachment in execution of any decree except a decree obtained in respect of such policies," the words "nor shall it be liable to attachment in execution of any decree except a decree obtained by a policyholder of the insurer in respect of a debt due upon a policy which debt the policyholder has failed to realize in any other way" be substituted.

18

[As the Hon'ble member has pointed out in the Bill, it is not at all clear that the bank could not attach the deposit at the action of a policyholder even when the insurer had plenty of other assets which might be proceeded against. There is therefore nothing to prevent a policyholder proceeding straightaway against the deposit although he has not exhausted all remedies. The wording now

Serial
No.clause 19 card

in "keynote" be substituted and the words
of the clause, omitted

[The amendment makes it clear
that this clause applied also to Cooperative
life insurance societies as defined in clause
94(1)(b)]

clause 20

23 That to clause 20(1) the following words be
added, namely

"any five figures being deemed equivalent
to one word"

(A change has been laid down, based on
the number of words copied as a copying fee
for documents which will consist very largely
of figures, and the object of this amendment
is to give an alternative method of calculating
that fee where there are practically no words
but all figures in the documents.)

clause 21

24 (1) That in clause 21(1)(b) after the word
"inter" in the first line the word "to submit"
be substituted. (This rectifies a clerical error.)

(2) That in 21(1)(d) for the words "before the
expiry of one month from the date on which
notification is given for correction or supply"

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General and Revenue
SecretariatClause 21 continued

of deficiency was delivered" the words, "before the expiry of one month from the date on which the requisition asking for correction of the inaccuracy or supply of the deficiency was delivered" be substituted. (This slightly improves the language of the clause).

Clause 27

That in sub-clause (1) of clause 27 after the words "shall" in line 2, the words subject to the provisions of sub-section (3) be inserted

25

That in sub-clause (1) of clause 5, after the words "equivalent to" the words "not less than" be inserted

26

That in the same sub-clause, for the figures, 55, 25 and 30 where they occur, the words "fifty-five" "twenty-five" and "thirty" be substituted

27

Serial
No.

Class 27 continued

(This is intended to clarify the position. There are liabilities in this connection but there are no claims and certainly no outstanding claims.)

29

That in Class 27, Sub-class (2),

- (1) after the words "in ^{shall} ~~any~~ in line 2, the words "Subject to the provisions of sub-section (3)" be inserted;
- (2) after the words "equivalent to" the words "not less than" be inserted;
- (3) for the words "of the reserve necessary to meet outstanding claims, the words "required to meet the liabilities" be substituted;
- (4) for the words "in and outside ~~scope~~" in line 7, the words "in ~~scope~~" be substituted; ~~and~~
- (5) for the words and figures "as to 33 1/3 per cent thereof" in lines 11 and 12, the words "Thirty-three and one third per cent of the said sum" be substituted; and
- (6) The words "as to" in line 12 be deleted

38. 13
That in the proviso to sect 27(3), after the words "shall have invested", the words
"not less than one-fourth in securities of the nature specified in sub-section (2)
before the expiry of one year," be inserted

File No. That the following clause be substituted for the sub-clause
27(4) : —

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The assets required by this section to be held invested by the
clause 27 continued authority to show sub-section (2)
applies shall be held in trust

That in clause 27(3) for the words
at the time of commencement of the Act,
the words at the commencement of this Act
be substituted

(X) —

clause 28

That in clause 28(1),

for the words "on or before the
30th day of June and on or before the
31st day of December" the words "within
fourteen days of the 30th day of June and
within fourteen days of the 31st day of
June" be substituted.

(These statements should be
made practically once in each half-year
and this object will be attained if the above
change in the wording is effected).

That in clause 28(1), for the words
investments made, the words "as at the
aid date the assets held invested" be
substituted.

(This avoids the possibility
of the words appearing in the clause being
interpreted as requiring the insurer to
report each separate investment made.)

30 for the discharge of
claims of the nature
referred to in sub-
section (2) and shall
be vested in trustees
resident in India and
approved by the Government
by an instrument of trust
which shall be executed
by the insurer and
31 approved by the Government
and shall define the
manner in which alone
the subject matter of the
trust shall be dealt with.

Serial
No.Clause 29

34

That in clause 29, after the words "on personal security," the words "or otherwise" be inserted. [as otherwise, the whole section may be rendered nugatory by advancing loans without any security whatsoever, personal or on property.]

34

~~That the word "Banking" be substituted for "banking" in line 12 of clause 29.~~

35

That in line 10 of clause 29, a comma be inserted after the word "actuary"

36

That in the second proviso to clause 29,

(i) After the word "provided," the word "further" be inserted

(ii) For the words ~~auditor or actuary~~ ^{in both places where they occur} "auditor or officer" the words "auditor, actuary, officer or partner" be substituted;

(iii) After the word "cashier" in line 3 of the same proviso, the word "shall" be inserted;

(iv) The words "date of" ^{in both places} "where they occur" be omitted; and

(v) For the word "hold such office from"

clause 29 continues
the existing" the words "hold office on the
existing" be substituted. ((More verbal caution))

* Clause 30

36A That the word "achary" in line 4 be
omitted.

Clause 31

That in clause 31 for the words "except
in so far as they are required" the words "except
in the case of deposits made with the bank under
Section 7 or in so far as assets are required"
be substituted, [for purposes of clarity of expression.]

37

clause 32

That in sub-clause (1) for the words
"managing agents" the words "a managing
agent" be substituted

38

2 That in sub-clause (2) for the words
"managing agents" where they first occur,
the words "a managing agent" be substituted
and where they occur a second time, the words
"managing agent" be substituted and
for the words "no compensation shall be
payable to them by the insurer by reason only
of the premature termination of their employment
as managing agents" the words "no compensation
shall be payable to him by the insurer by reason
only of the premature termination of his
employment as managing agent" be substituted

Serial
No.Clause 32 continued

[3 That in sub-clause (3), for all the words after "for his services as managing agent more than the following be substituted, namely:-

Five Hundred
one thousand
two thousand

rupees per month in all, including salary and commission and other remuneration payable to and receivable by him for his services as managing agent"]

Clause 33

- 39 (1) For sub-clause (2) the following sub-clause be substituted, namely
- "(2) The Court may, on the application of an insurer and after giving notice to and hearing the Superintendent of Insurance, forbid such action by the Superintendent, if the insurer satisfies the Court that it is unnecessary in the circumstances"
- (2) In sub-clause (3) for the words "one copy shall be furnished to the insurer and a copy to policy-holders" the words "one copy shall be furnished to the insurer; and a copy of such report shall be furnished to the policyholders" be substituted.

Clause 35

That in clause 35 (4) and in line 1, 40
for the word and figure " sub-clause 3" the
word, bracket and figure " sub-section (3)"
be substituted and for the word " When" the word " there"
~~be substituted and for " Sections 367" in line 7, the letters and word~~
~~" 3 and 7" be substituted.~~

That in the revised sub-clause 35 (4), for 41
the word, for the registration " in line 6, the
word, for registration" be substituted

Clause 36

That in clause 36, ^{line 3, for the word " unless" the word " if" and} for the word " if" in 42
~~line 3,~~ the word " it" be substituted and
for the words ^{Resident in Mysore} "(or in an Indian State or in British
India" in line 5, the word, " or outside Mysore"
be ~~substituted~~ be omitted,
That in line 6, for the word " an" the word " any" be substituted

Clause 38

That in sub-clause (1) of clause 38, the word 43
either where it first occurs, be omitted [as it
is superfluous and misleading]

That in sub-clause (3) the following be added:- 44
as between persons interested in the policy
and where there is more than one instrument
the priority of the claims under such instruments
shall be governed by the order in which the
notices referred in sub-section (2) are delivered

Clause 39

That in 39 (6) ^{line 1,} for the ^{article} letter " a" the word " the" be substituted. 44A

Serial
No.clause 40

45

That in sub-clause (2),

(1) for the words "of renewal premium", the words "of a renewal premium" be substituted;

(2) for the words "of premium" the words "of the premium" be substituted; and

(3) for the figures "40", "5" and "15" the words "forty", "five" and "fifteen" respectively be substituted

46

That in the proviso to sub-clause (2), for the words "of renewal premium" the words "of the renewal premium" be substituted

47

That in sub-clause (3), for the words "first day of January" the figure and words "The 1st day of January" be substituted

Clause 41

48

That in clause 41 (1) for the opening words "no insurer, no employee of an insurance agent licensed under section 42, and no insurance agent acting on behalf of an

Clause 41 continued
 insurer, the words "no person" shall be substituted.

That for clause 41 (2) the following be substituted, namely:—

Any person making default in complying with the provisions of this section, shall be punishable with fine which may extend to one hundred rupees, unless the default is made by a person effecting or renewing a policy, in which case he shall be punishable with fine which may extend to fifty rupees only.

Clause 42

That in clause 42 (1) after the words, "Superintendent of Insurance" the words, "or an officer authorized by him in this behalf" be inserted.

[This has the effect of enabling the Superintendent the duty to devolve the duty referred to in this clause on a deputy and the power of delegation is necessary because when this section comes into force, there will be a large number of persons who will require to be

49

50

Serial
No.clause 42 continued

licensed and the Superintendent himself would be unable to deal with the task, without affecting his other serious office work being impaired or affected]

51 That in 42(3) for the words, but if the applicant does not suffer from any such disqualification" the words, "but shall if the applicant does not suffer from any of the ~~the~~ disqualifications hereinafter mentioned" be substituted.

52 That in subclause 42(4)(d) for the words, "it shall appear that he has been found guilty or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against the insurer or the assured" the words "it has been found that he has been guilty of or has knowingly participated in or connived at every fraud, dishonesty or misrepresentation against an insurer or an insured" be substituted

52A That in 42(5) for the word "regulation" the word "Act" be substituted

clause 43 continued

That in clause 43 (1) for the words
acting on behalf of an insurer who,
for the purposes of insurance business,
employs licensed agents" the words
who acting on behalf of an insurer
employs licensed insurance agents"
be substituted

53

That for clause 43 (2) the following be
substituted, namely

54

Any individual not holding a
license issued under section 42, who
acts as an insurance agent, shall be
punishable with fine which may
extend to fifty rupees, and every
insurer who or any person, acting
on behalf of an insurer who, appoints
as an insurance agent, any indi-
-dual not so licensed or transacts any
insurance business in Mysore
through any such individual, shall
be punishable with fine which may
extend to one hundred rupees."

[The idea is to make the scope wider
and use the phraseology of the previous section.]

Serial
No.

53

Clause 44

That for clause 44, the following clause be substituted, namely :-

Notwithstanding anything to the contrary in a contract between any person and an insurance agent licensed under Section 42 forfeiting or stopping payment of renewal commission to such insurance agent, no such person shall in respect of life insurance business done in Mysore refuse payment to an insurance agent of commission on renewal premiums due to him and under the agreement by him only of the termination of his agreement except for fraud

Provided that such agent has served such person continually and exclusively for at least ten years, and provided further that, after his ceasing to act as agent, he does not directly or indirectly solicit or procure insurance business for any other person^m

[The change is that "insurer" is replaced by "any person" in the 1st and second paragraphs to increase the scope of the section.]

Clause 45

That in clause 45 for the words
'policy of insurance' the words "policy
of life insurance" be substituted

56

[The clause really applies to life insurance
policies only and hence the amendment.]

Clause 48

That in clause 48 (1) for the words
'holding policies of insurance' the words
'holding policies of life insurance'
and for the words "holders of policies
of insurance" the words "holders of
policies of life insurance" be substituted

57

[Otherwise, we might have people
meaning qualified to be directors and to be
ster by taking out a burglary policy
or a motor car policy for one year.]

Clause 49

That in clause 49,

58

(1) for the words "clause (8) of section 2
the words "clause (9) of section 2" be substituted;
and (2) after the word "shall" the words
'in respect of such life insurance business'
be inserted.

Serial
No.

clause 50

59. That for clause 50 the following clause be substituted, namely :-

" An insurer shall within three months of the lapsing of a policy of life insurance, give notice to the policy holder informing him of the options available to him"

Clause 51

60. That in clause 51 for the words " and answers" the words " best to him and his answers thereto" be substituted

Clause 52

61. That for clause 52 the following clause be substituted, namely :-

" No insurer shall after the commencement begin or after three years from that date continue to carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution of certain funds amongst policies becoming

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claims within certain time limits or on the principle that the premiums payable by a policyholder depend wholly or partly on the number of policies becoming insured claims within certain time limits.

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise.

Provided further that an insurer who continues to carry on insurance business on the dividing principle after the commencement of this Act shall withhold from distribution a sum of not less than forty per cent. of the premiums received during each year after the commencement of this Act in which such business is continued so as to make up the amount required for investment under Section 27."

[It is here learnt that the following companies are carrying on business on "dividing principle" in Mysore:-

1. Deccan Assurance;
2. Donatian Union Bank & Railways;
3. Indran Kulkarni
4. Neptune
5. Reliance
6. Venu Assurance
7. Kurnul & Hyderabad Assurance

of these, nos. 5 & 8 are registered locally and the foreign companies. only two of the latter viz. nos. 1 & 2 have branch offices in the Mysore State.]

Serial
No.Clause 56

- 62 That in proviso (b) of sub-clause 56 (2) for the words "policy owners" the words "policy holders" be substituted.

Clause 60

- 63 That after the word "conveyance" where occurs the first time, the words "for the purpose of a cash distribution of the assets" be inserted.

clause 65 continued

Should be confined only to a "body of persons"]

That in sub-clause (a) of clause 65 the word "or" be omitted and after the word "person" the words "or the survivor by a person of a stated age or contingently" be added and the sub-clause (e) be omitted, the other sub-clause being suitably renumbered.

66

That to sub-clause (h) as renumbered for the word "authorised" the words "which may be authorised" be substituted.

67

Clause 67

That the following clause be substituted for the existing clause 67:-

68

"No provident society established after the commencement of this Act shall adopt as its name and no provident society established before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words which fails to include the

Serial
No.

word "Provident" or which includes the word "Life"
[This is found necessary as there are two firms
societies carrying on business at present with the word
"Life" and without including the word "Provident"]

clause 69

69 That to clause 69, the following sub-clause (2)
be added, namely: -

"The Superintendent of Insurance shall,
as soon as possible, take steps to have any
Provident Society which carries on business
on dividing principle wound up

Provided that, where any such Provident
Society is in existence at the commencement
of this Act applies within three months of
such commencement to the Superintendent
of Insurance for permission to continue
carrying on its business with a view meanwhile
to reorganise its business in accordance
with the provisions of this Act, the Superintendent
of Insurance may at his discretion, with due
regard to the past history of the Society, permit
the Society to continue business for a period
not exceeding two years from the date of
receipt of such permission. In however that

no new business on the dividing principle is
undertaken by the society

[It is now learnt that the Mysore Commercial
and Chemical Co. incorporated in June 1937
under the Mysore Companies Act, 1917, is carrying
on provident business on the dividing principle.
This provision should have been made in the Bill
itself but for the fact that the Registrar reported
that there was no provident society in Mysore]

Clause 70

That in clause 70(1) after the word "society" ^{BM} 70
the word "except a provident society" being
a company registered under the Mysore

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[App. F. III-2]

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before the commencement of this Act within
the year from such commencement, or, if
established after the commencement of this
Act^a be inserted.

[This amendment is found necessary
as there are two provident societies, registered
under the Reglement des Sociétés, 1917, carrying
on the business of provident insurance in Belgium]

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~~being a company registered under~~
~~the Mysore Companies Act, 1917, or under the~~
~~Mysore Companies Act, 1938, fail to comply~~
~~with the provisions of this section the society shall~~
~~before the expiry of twelve months from the~~
~~commencement of this Act, amend the~~
~~rules so as to comply with the provisions~~

That in sub-clause 73 (1) (i) for the
 word "paid" the word "paid" be substituted

Serial
No.clause 82

76 (1) That the following sub-clause be sub-
-stituted for the sub-clause (1) of clause 82 :-

Every provident society, established
after the commencement of this Act, shall cause
every scheme of insurance which it proposes to
put into operation, and every provident society
registered before the commencement of this Act
under the provisions of the Mysore Bankers
Act, 1917, shall cause any new scheme which
it proposes to put into operation after such
commencement to be examined by an actuary,
and shall not receive any premium or
contribution in connection with the scheme
until the actuary has certified that the
scheme is sound and such certificate
has been forwarded to the Superintendent of
Insurance."

(2) That after sub-clause (2), the following
sub-clause be added as sub-clause (3), the
existing sub-clauses (3), (4) and (5) being
renumbered as sub-clauses (4), (5) and (6)
respectively :-

" Every provident society registered
before the commencement of this Act,

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Under the provisions of the Mysore Benefactors
Act, 1917, shall as soon as may be and
in any event before the expiry of
six months from the commencement
of this Act, submit all schemes of
insurance which the Society has in
operation at the commencement of the
Act to examination by an actuary
and shall send the report of the
actuary thereon to the Superintendent
of Insurance

35
36 A

Serial
No.

77

clause 84 continued

That in sub-clause (3), after the words held in the society the words and within its immediate value be inserted [The change brings the clause into accord with section 29.]

78

clause 84 A

That the clause 84 A be omitted

[Vide new clause 70 A inserted]

79

clause 86

That in sub-clause (1) of clause 86 after the word "visit" the words "personally or depute a suitable person to visit" be inserted

80

That in sub-clause (3) before the words "shall be sent" the words "a copy of the report" be inserted. [This corrects a verbal error.]

81

clause 91

That in sub-clause 91(4) after the words "a suitable person" the words "in place of or" be inserted. [This is a purely verbal amendment]

82

clause 93 A

That after clause 93, the following new clause 93 A be inserted which had been erroneously left out in the original Bill

93A continued

93A (1) An appeal shall lie to the
Appeal Court within thirty days. -

(a) from an order of the Superintendent
of Insurance refusing to register a provident
society or any rules or amendments of rules
of such society

(b) from an order of the Superintendent
of Insurance cancelling the registration
of a society

(c) from an order made by a liquidator
appointed under Section 89

(2) Save as provided in sub-section (1) any
order made under this Part shall be
final and, conclusive

Serial
No.clause 94 continued

- 84 That to clause 94 (1) (b), the following proviso be added:-
"Provided that any cooperative life insurance society in existence at the commencement of this Act shall be allowed a period of one year for complying with the provision of this Act."
- 85 That to clause 94, the following sub-clause be added as sub-clause no: (2)
"(2) Notwithstanding anything contained in sub-section (1), other Cooperative Societies may be admitted as members of a cooperative life insurance society, without being eligible to any dividend, profit or bonus"
- 86 That the existing sub-clause (2) and (3) be renumbered as sub-clause (3) and (4) respectively.
- 87 That in sub-clause (3) as renumbered, for the words "for insurance of cattle or crop" the words "for the insurance of cattle or crops" be inserted
- 88 That in sub-clause (4) as renumbered, for the words "the provisions of this Act in so far as they are inconsistent with those rules or Acts shall not apply to such societies" the words "the provisions of this Act in so far as they are inconsistent with those rules shall not apply to such Societies" be inserted

Clause 99

That in clause 99, after the words "a Mutual Insurance Company" the word "or a Co-operative Life Insurance Society" be inserted and for the words "in a newspaper published in the English language and in a newspaper published in an Indian language circulating in Mysore" the words "in a newspaper or newspapers published in one of the principal languages circulating therein" be ^{substitute} inserted

89
90Clause 100

That in clause 100, for the words "Every Mutual Insurance Company and Co-operative Life Insurance Society" the words "Every Mutual Insurance Company and every Co-operative Life Insurance Society" be substituted and after the words "the Registrar of Co-operative Societies" the words "by whom the Co-operative Life Insurance Society is registered" be inserted

90

Part VClause 102

That in clause 102 (1) for the words and figure "or Section 7," the words and figures "Section 7, Section ⁹⁶ ~~102~~ or Section ⁹⁷ ~~102~~" be substituted.

91

Serial
No.clause 106

92

That in clause 106 for the words "Save and except where it is instituted" the words "Except where proceedings are instituted" be substituted.

clause 112

Clause 109
93. I have ~~not~~
after the
words "shall
lie" in sub-
clause (1) the
words "within
thirty days
from the date
of the order"
has inserted

94

(1) That the clause 112 be numbered as clause 112(1)
(2) That the words "in case" with which the
clause begins, be omitted; and
(3) That the following be substituted for the
"Explanation" to sub-clause (1):—

"Explanation.— For the purposes of this
sub-section the paid up value of a policy shall
be an amount bearing to the total sum
assured by the policy the same proportion as the
total of the premiums already paid on the policy
bears to the total of the premiums payable
under the policy.

95

That for sub-clause (2) of clause 112, the following
sub-clause be substituted, namely:—

"(2) A policy kept alive to the extent of its
paid up value under sub-section (1) shall
not participate in any profits of the insurer
earned after the conversion of the policy into
a paid up policy."

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of 193

General and Revenue
SecretariatClause 113

That in 113 (2) (C) after the words "including" the words "receipt of" be inserted; and after the words "withdrawal of" the word "and" be inserted

[The amendment makes it clear that rules may be made in relation to the actual process of lodging of deposits]

That at the end of 113 (2) (K) the word "and" be added;

96

96

Serial
No.

Clause 116 continued

bracket and figures sub-section (2)⁴ be substituted.

Clause 117A. (new clause)

That the following clause be inserted after clause 117 :-

[^{or} 117A] Nothing in this Act shall apply to any insurance business carried on by the Government.
Exclusion of Government insurance business from the operation of this Act.

[This amendment is proposed following the British Indian enactment, to under the definition of "insurer", the Government cannot be construed as being included, the provisions of the Act cannot be deemed to apply to the insurance business carried on by the Government. The provision, if inserted, will only clarify the position further.

Another point for consideration in this connection is whether some of the provisions such as those relating to assignment, nomination and payment of money into Court should be made applicable to Govt. Insurance. Rather than bring "Government" down to the level of an ordinary insurer, whose business

comes within the administrative jurisdiction of the Superintendent of Insurance, these provisions may, with advantage, be introduced in the State Insurance Act itself, & may of amendment. In such cases however are foreclosed.]

Clause 118

That in clause 118, after the word "all" the word "Standard" be inserted

[This indicates that the former policy contracts which are to be forfeited are the standard forms and not particular forms issued in respect of individual insurances which may have special terms.]

Miscellaneous

That in clauses 17, 48 (1), 70 (2) (a), 73 (1) (a), 81 (3), 87 (1) and 87 (4) after the words "Banking Act, 1919" the words "or under the Mysore Banking Act, 1917" be inserted

That in clause 94 (1) (a), after the words "Banking Act, 1919" the words "or under the provisions of the Mysore Banking Act, 1917" be inserted

That the clauses and sub-clauses of the Bill be renumbered as necessitated by the amendments made, and that all references to the numbering of the clauses be corrected as required & such necessary

117 A. motion is standing anything contained in section 47A. The Govt. may, by notification, apply all or any of the provisions of the Act to the insurance business carried by the Govt.

103

104

105

106

SIR,

In continuation of this Office letter No.22333 dated 14th May 1936, I have the honour to forward herewith a copy of - Resolution No.III passed at the meeting of the Mysore State Life Insurance Committee held on 7th June 1937 and to request that Government may be kindly moved towards the introduction of the Insurance Legislation in the State as early as possible.

Extract from the proceedings of the Third Quarterly Meeting of the Mysore State Life Insurance Committee held on Monday the 7th June 1937.

xxx

xx

x

xx

xxx

Public Branch.

RESOLUTION NO. III.

Consideration of the question
of introducing in the State an - -
Insurance Regulation on the lines of
the Bill that is before the Indian
Legislature.

Y
Y
Y
Y
Y
Y
Y
Y

Resolved that another recommen-
dation may be made to Government that
the Insurance Regulation may be -
passed as early as possible.

BARODA STATE LIFE ASSURANCE COMPANIES ASSOCIATION.

BARODA, 31st July 1937.

Sir,

I have the honour to represent to you the real situation regarding the New Insurance Law which has been referred to the Select Committee by the Government of India and that Committee will sit in session on the 9th proximo. This Committee will sit upto the 22nd day of August next and its report will be submitted to the Government of India thereafter and then the report together with the Bill No. IV of 1937 will be placed before the Central Legislature. It is rumoured that this Bill will take nearly three weeks for discussion in the Central Legislature and then by the end of September it will be passed into the Statute book.

As the question of Fedaration is in the air and each one of the States is fighting for its right, it will be meet and proper to see that the right under the Insurance Law is also made applicable to all the Indian States, just in the same way as those Companies incorporated in British India are agitating for certain statutory rights over the foreign Companies. If this question is not agitated in proper time and manner it will then be taken for granted that the Indian States' silence meant for full consent, and hence, I think it very essential to represent the whole matter as it stands today, which you will find from the copies of representation submitted by my Association to the Government of India through His Highness' Government. If not today, tomorrow it will happen to those institutions if started in your State or Dominion. Why not agitate when the proper opportunity is at hand.

In the opinion of my Association if the Indian States too fight for their rights and win it by agitation, not only the Institutions will be benefited but also the State Treasury and thereby the State subjects will get direct or indirect benefit. To be more plain, the State's income will be increased by Stamp duty, Income Tax and many other incidental charges such as registration charges, court-fee charges and what - not in the wake of Insurance business and policies. Today, as I see it, this income goes into another's coffer which you will admit is not proper and just.

Therefore, with all the emphasis at my command, I entreat you to agitate and agitate for the right which is yours. As the agitation is going on in many other directions for the right to live, let there be no misunderstanding that time has come for all to fight for the right of the National Institution which is more helpful than the Banks, not only for the uplift of the country but also, for the industrialisation of an agricultural country like India. I have every hope and trust that this appeal will not fall on deaf ears but, will bring us all together into one fold for agitating for the full right to live in ones own country without any hitch or hinderance.

Anxiously awaiting your communication,

I have the honour to be,

Sir,

Your most obedient servant

K. A. TRIVEDI

Secretary.

Subd with reference to Para 9.
~~Whether this may be kept for consideration before the Select Committee meets on 28-4-38 is in order~~

H. Secy

By
26-4

The Special Officer says what is intended to be done — or
view of x x it is proposed to follow
the lines of the British Indian A
Under the circumstances it is for
consideration what reply should
be given — if a reply is necessary
to the petitioner Or the issue

H. Secy

By
25-4

From

B. R. Annachan
~~THE HEAD~~ MASTER
~~MISTRESS~~

Board *Boys* School, *Trivunayagacooddy*

Trivunayagacooddy B.P.O.

(Via) *Aduturai P.O. by*
(*Tanjore &c*)

9 MAR 1938

To

The *General Secretary*

to the Government of Mysore Bangalore.

Sir Most Gracious Excellency

Fully believing the Mutual Benefit Scheme
Proposed by Messrs. The Reliance Insurance Co. of your place,
properly as well as others took their certificates and they
are accordingly working. Though the amount coming
to Nominees by way of monthly distribution may vary
every month, we are glad

They stopped enlisting fresh members from March 23.
Present certificate holders are only very small. Some
may die and some may retire within 10 years of their
starting period. Certificate holders or their Nominees may
surely expect to get at least 50 p.c. higher than what
they have paid as per the Co's guarantee rate 10.

3 Now from a short time back the Co. are asking me
to get my certificate No 17617 taken on 2.4.1932 and
about Co. complete on April 1942 (except in case of
by earlier death.) converted to Table VI A or VI B. If
their regular insurance scheme. saying that the Govern-
ment of India and Mysore are going to issue orders
from July next or so to completely stop the old scheme
working.

2. If I convert my certificate No 17617 to regular
scheme, evidently, I am a loser i.e. I am to get

GENERAL SECRETARY

J. B

Mr C.S.T.

Rs 130 or Rs 136 according as I select Table VI A or VI B
against Rs 180 I may complete after 15 years. Now, by this
month, I complete 6 years. When I complete the remaining ~~about~~
4 years, myself or my Nominee are sure to get $1\frac{1}{2}$ times
at least as per Govt guarantee. which I cannot expect
by converting my certificate. To get this Rs 130 or Rs 136
I must continue payment at Rs 1 per month for 5 years
more after April 1942. To pay this Rs. 1 per month,
it is very troublesome for me on account of my poor salary.
Since I am expected to retire from my present Board
about 1944 I must necessarily continue

have paid from their rescue fund before they stop
stop working their scheme under your orders.

I also pray for the supply of a copy of the Insurance Bill
which he to say is obtainable from you

Anxiously awaiting Excellency's esteemed and favourable
orders

I beg to remain.

Most-loyal & obedient

Your Excellency's most obedient
servant.

A. Ram Chandra Agar
H. and Son.



The Gazette of India

PUBLISHED BY AUTHORITY.

NEW DELHI, SATURDAY, NOVEMBER 12, 1938.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, was presented to the Legislative Assembly on the 10th November 1938:—

We, the members of the Select Committee appointed to consider the Bill further to amend the Indian Income-tax Act, 1922, have examined the Papers Nos. I and II. Bill and the papers noted in the margin and have now the honour to submit this our Report with the Bill as amended by us annexed.

We are of opinion that the Bill should contain provisions for the introduction of a further appellate authority, of an independent nature, for the hearing of appeals from decisions of Appellate Assistant Commissioners. The limited time at our disposal and the complicated nature of the adjustments that would be necessary for this purpose have prevented us from giving effect to our views in the Bill itself, and have reconciled us to awaiting proposals on the subject which Government undertakes to put forward at the consideration stage.

On the general lines to be followed by those proposals we are agreed; but we are also agreed that the introduction of the new appellate body may be postponed for a period not exceeding two years, to avoid the possibility of undue dislocation. The new appellate body should consist of a tribunal composed of not less than two members chosen from each of two categories of a panel of some eight or ten members comprising legal members with qualifications such as are normally required for appointment as a District Judge and technical members recruited from among persons with professional experience of accountancy. We think that when the panel is being appointed, persons discharging the functions of Appellate Assistant Commissioners under the existing system should be eligible for appointment. We think that the selection of members of the panel should be made after consultation with the Public Service Commission, and that members should not, during their tenure of office, have any other connection with the public administration. Power to regulate the procedure of tribunals should be vested in them or in the panel from which they are constituted, and the chairman or the president of the panel should have the necessary powers to select the members of the tribunals. When the tribunals come into operation the revisory powers at present exercised by the Commissioner of Income-tax should disappear, but he should have power to direct the

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to see
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of an Appellate Assistant Commissioner. The Commissioner's power of stating a case to the High Court will also disappear. The ordinary period of limitation for an appeal to the tribunal should be two months, and a substantial fee should be imposed in order to discourage petty or frivolous appeals and ensure that a large body of appeals will be disposed of finally by Appellate Assistant Commissioners. There should be no appeal from the tribunal but the assessee or an Income-tax Officer should be able to make application to the tribunal to refer questions of law to the High Court, the period of limitation in this case being extended to ninety days.

We anticipate that proposals on these lines when moved in the House will receive a large measure of support.

The Bill proceeds on the assumption that the "slab" system of rates of tax will be adopted. We are of opinion that this system is definitely preferable to the present "step" system; but we wish to reserve our right to criticize any particular application of it which may be included in the annual Finance Bill.

The changes we have made in the Bill are explained in the paragraphs which follow. References to clauses are to the clauses as now re-numbered in consequence of the introduction of a new clause after clause 12, the omission of clause 31, and the introduction of new clauses after clause 53 and clause 66. When a change of number has taken place the number previously attached to the clause is given in brackets after the present number.

Clause 2.—We have recast and expanded the definition of "dividend", primarily in order to ensure that no distribution falling under this head shall be taxed unless there is a release of assets. Under the amended definition a debenture will when issued be treated as a dividend but an ordinary bonus share will not be liable to taxation until it is actually paid off. The definition further secures that accumulated profits distributed on the liquidation of the company shall only be included in dividend for the purposes of taxation, if they arose within six years of the liquidation. Clause (d) of the revised definition provides for the case in which a company tries to disguise a distribution of profits as a reduction of capital. The words inserted in the new sub-clause (c) of clause (11) of section 2 of the Act by clause 2 (e) (iii) of the Bill merely make a correction overlooked in the Bill, and necessary in view of the revised wording of section 10 of the Act.

Clause 3.—We have introduced a reference to "local authority" since local authorities will now be assessable to the extent to which the previously existing exemption given by clause (iii) of sub-section (3) of section 4 of the Act is now being restricted.

Clause 4.—The first proviso newly inserted in clause (c) of proposed sub-section (1) of section 4 of the Act is aimed at removing the possibility now that, in the case of residents the remittance basis of taxation is abandoned for the accrual basis, of both foreign profits which accrued in the previous year and foreign profits which were remitted in the previous year being assessed in the first year after the change.

The alterations made in the second proviso merely clarify the drafting.

Explanation 2 has not been altered, but the Committee records its opinion in connection with this *Explanation* that the Central Government should approach His Majesty's Government to amend the Government of India Act, 1935, so as to make pensions payable out of Indian revenues chargeable to Indian income-tax.

Explanation 3, newly inserted by us, has the effect of making liable to super-tax dividends paid outside British India in so far as they are paid out of profits subjected to income-tax in British India. It also makes it clear that refunds of income-tax can be claimed on such dividends. To the extent to which this *Explanation* enlarges the taxation imposed under the Bill we recognise that it is not covered by the sanction accorded to the Bill before introduction, and so requires sanction before it can be moved in the House.

We have received an assurance that administrative arrangements can and will be made to obviate any hardship that might be imposed, in consequence of the change to the accrual basis of taxation, on persons prevented by laws in force in the country where their money may be lying from remitting money to British India as and when they wish.

Clause 5.—The change made in the drafting of clause (a) of proposed section 4A of the Act adopts the wording suggested in the Income-tax Enquiry Report, 1936, which is based on draft clause 6 of the draft Income-tax Bill appended to the report of the United Kingdom Income-tax Codification Committee presented to Parliament in April, 1936. The change in clause (b) of the section merely omits the word "central".

Clause 6.—The addition made to sub-section (2) of section 5 of the Act is intended to make possible the establishment at a central or headquarter station under the Central Board of Revenue of special branches for work of special difficulty of importance. The change made in sub-section (7) is merely a drafting improvement, while that made in sub-section (8) is consequential on the provision made in sub-section (2) for the existence of Commissioners of Income-tax whose jurisdiction is not defined by areas. The new sub-section (9) inserts a provision contained in the English law explicitly asserting the controlling power of the superior Revenue Authority over its officers.

Clause 8.—Some apprehension was expressed that under section 7 of the Act as now amended an employee might find himself called on to pay income-tax on salary which was not and never would be paid to him. We have received an assurance that administrative action can and will be taken to obviate any such hardship.

Clause 9.—In clause (iv) of sub-section (1) of section 9 as re-drafted by the Bill, we have removed the words "was at the time of its acquisition by the assessee", in both places where they occur, and substituted the word "is". The effect is to secure, as the Act does at present, that the allowance is claimable no matter when and for what purpose the mortgage or charge arises. The words inserted in the proviso to that clause are intended to make it clear that the payment of tax referred to is not confined merely to cases in which payment has

been made by deduction under section 18. The alteration made in clause (vii) of sub-section (1) of section 9 of the Act is intended to remove the discretion formerly given to the Income-tax Officer to determine the amount of the allowance to be made in respect of vacancies.

Clause 10.—The first change in sub-clause (b) improves the wording of clause (i) of sub-section (2) of section 10 of the Act. The verbal change indicated in the proviso contained in sub-clause (b) (ii) of the Bill has the same purpose as the similar change already referred to in clause 9 and to be found also in our revision of clause 12. The other change indicated in clause 10 (b) (iii) of the Bill has the effect of altering the proposals relating to depreciation which were contained in the Bill. Taken along with the second proviso now added to the definition, contained in sub-section (5) of section 10 of the Act, of the words "written down value" this alteration substitutes for the proposals regarding depreciation contained in the Bill provisions which remove the restriction of depreciation to the amount written off in the books of the assessee, remove the restriction to six years of the carry forward of depreciation, and secure that depreciation which is un-absorbed at the time when the law is changed shall not be deducted from the original cost of plant, machinery, etc., in arriving at the written down value. The effect of this provision is to spread the writing-off of the unabsorbed depreciation over a longer period. The proposals contained in the Bill limited the amount of depreciation to the amount written off in the books of the assessee and treated depreciation arising after the change of the law as a loss like other losses, so that it could be carried forward only for six years. Depreciation unabsorbed at the time of the change of the law was to be carried forward without time limit until it was absorbed but was to be deducted from, that is to say allowed against, profits before any further allowance for depreciation was to be made for any particular year subsequent to the change of the law.

Government have given us an assurance that the new rates consequent on the change from the cost basis to the written down basis will be discussed with the interests concerned before they are fixed, and that the new provisions will not be brought into operation until the rates have been so fixed.

The main change made in clause (xi) of sub-section (1) of the Act, as amended by clause 10 (b) (vi) of the Bill, makes it clear that irrecoverable loans in a banking or money-lending business are to be allowed for. A minor drafting change is also made.

The re-draft of section 10 (2) (xii) of the Act contained in clause 10 (b) (vii) of the Bill substitutes the wording of the English Act for the wording adopted in the Indian Act.

The words now inserted in the new sub-section (4) of section 10 of the Act, as substituted by clause 10 (c) of the Bill, provide for the grant of some relief, now that the system of taxation is changed to the accrual basis, where double income-tax relief is not given in the country where the profits accrue or arise. The second change shown in the sub-section is similar to that already referred to in connection with clause 9, and found also in clause 12,

In the new sub-section (5) of section 10 of the Act, in addition to the change already referred to in the definition of "written down value", we have inserted a reference to vehicles in the definition of "plant" and we have made a verbal change of the word "allowed" to the word "allowable".

We have also added a proviso, already referred to in our remarks above on clause 10 (b) (iii), to ensure that depreciation allowance due for a year prior to the change of the law but unabsorbed shall not be deducted from original cost in arriving at the written down value.

The new sub-section (7) which has been added to section 10 has the object of including in the Act and placing on a statutory basis the provisions relating to the computation of the profits and gains of insurance business which were formerly contained in rules made by the Central Board of Revenue under the power conferred by section 59 of the Act.

Clause 12.—The changes made have already been explained in our remarks on clause 9.

Clause 13 (new clause).—This introduces into the Act a new provision for the special case in which managing agency commission is shared among two or more recipients and provides a means by which each of the recipients may be charged only on the share which he is actually entitled to receive.

Clause 16 (old 15).—We have increased the limit imposed on sums exempted from income-tax by reason of payments for life insurance and contributions to Provident Funds from six thousand rupees to twelve thousand rupees in the case of a Hindu undivided family. The second change made in this clause is merely a drafting improvement.

Clause 17 (old 16).—We have supplemented clause (c) of the new sub-section (1) of section 16 of the Act by the addition of two definitions, the first explaining the term "revocable" and the second explaining the terms "settlement or disposition" and "settlor or disponent".

The change made in sub-section (3) of section 16 of the Act, as amended by sub-clause (b) of this clause of the Bill, introduces into clause (b) of sub-section (3) of section 16 of the Act the words "otherwise than for adequate consideration" which are already to be found in clause (a) (iii) of that sub-section and had previously been omitted by oversight.

Clause 18 (old 17).—We have omitted from section 17 of the Act the first sub-section which had the effect of basing the individual liability of each of two married persons on the combined income of both.

The reference to Burma introduced in sub-section (1) of section 17 of the Act is made for the purpose of according to States in Burma the same treatment as is accorded by the Burman law to States in India.

The words inserted in sub-section (2) of section 17 of the Act are necessary, because an unregistered firm may under section 23 (5) of the Act be assessed as a registered firm and the present sub-section is not intended to apply where an unregistered firm is so assessed.

Clause 23 (old 22).—In sub-section (1) of section 22 of the Act we have altered the wording so as to require the notice under that sub-section to be published both in the press and also in the prescribed manner instead of allowing publication in either manner.

It has been made clear to us that notwithstanding such publication of notices Government intend that notices shall as hitherto be served on all persons believed to have incomes liable to assessment.

Clause 24 (old 23).—The omission of the matter indicated by asterisks in sub-clause (a) has the effect of securing that a specific notice under sub-section (2) of section 22 must be served on the assessee before an assessment under sub-section (4) of section 23 can be made.

Clause 25 (old 24).—In the proposed new sub-section (1) of section 23A of the Act the first change indicated by asterisks and by the insertion of the words "by any company" has the effect of extending the scope of the section to all companies and not merely to companies which are under the control of not more than five persons. We have restored the words "with the previous approval of the Inspecting Assistant Commissioner" which though already in the Act were omitted in the re-draft of the sub-section proposed in the Bill. The change made in the proviso covers cases where the accumulated undistributed profits exceed the value of the fixed assets or the paid up capital taken with loan capital belonging to shareholders, whichever is greater. We have added an additional proviso in order to make allowance for possible cases of error in which, though the full sixty per cent of the assessable income of the company has not been actually distributed, an amount exceeding fifty-five per cent has been distributed. In such cases we consider that the company should be given a reasonable opportunity of escaping the operation of the section by revising its distribution within three months. The removal of the reference to subsidiary companies supplements the first change made in the section and secures the application of the section to all companies except companies in which the public are substantially interested in the sense defined in the *Explanation*. The deletion of clauses (a), (c) and (d) in the *Explanation* is consequential on the changes made in the main part of the sub-section.

Clause 26 (old 25).—In sub-section (2) of section 24 of the Act as amended by this clause, the words now inserted rectify an omission. The sub-section as drafted in the Bill failed to render impossible claims based upon losses sustained many years before the present changes in the law.

Clause 28 (old 27).—The omission made in sub-section (2) of section 24B of the Act ensures that the executor, administrator or other legal representative can only be assessed after he has been served with a specific notice under sub-section (2) of section 22.

Clause 31 (old 30).—The words added to the proviso to sub-section (2) of section 26 of the Act give an explicit right to the person by whom tax properly payable by another is paid to recover any amount so paid from that other person.

Clause 31 of the Bill as introduced.—The omission of this clause has the effect of restoring section 27 of the Act. We consider that the deletion of

section 27 though coupled with the grant of the right of appeal against assessments under section 23(4) of the Act made the position of the assessee worse than it was under the existing law.

Clause 32.—In the proposed new sub-section (1) of section 28 of the Act we have provided that accidental failure to furnish the returns referred to shall not be visited with penalty; and by our changes in the proviso to the sub-section we have restricted the penalty for failure to comply with the general notice under sub-section (1) of section 22 of the Act to assessee whose income is not less than three thousand five hundred rupees, and we have reduced to a maximum of twenty-five rupees the penalty for failure to comply with the notice under section 22(2) of the Act where the person failing is proved to have no income liable to tax. We have omitted clause (c) of the proviso contained in the Bill as introduced in the belief that it is unnecessary.

Clause 34.—The first two changes indicated in sub-clause (a) of the clause and the change in sub-clause (b) restore references to section 27 of the Act. These have again become necessary since we have decided to retain that section (see note or clause 31 of the Bill as introduced). The change made in sub-clause (a) (v) [now (iv)] of clause 34 has the effect of restoring in sub-section (1) of section 30 of the Act the original proviso omitted by the Bill, which enacted that no appeal shall lie in respect of an assessment made under sub-section (4) of section 23 or under that sub-section read with section 27. A mistaken reference to section 49C has been removed in two places in this clause and in one place in clause 35 and a reference to section 49E has been introduced in each case consequentially upon the insertion of new sections in the Act.

Clause 35.—The change made has the effect of restoring to the Act references to section 27 which were deleted in consequence of the proposed omission of that section.

Clause 39.—The proposals contained in the Bill adopted the period of six years uniformly as the limit for the carrying forward of losses under section 24, for pursuing income which had escaped assessment under section 34, for the rectification of errors under section 35 and for the claiming of refunds under section 50. We have decided to retain six years as the limit for the carrying forward of losses under section 24, but we think that in all the other cases the limit should be a period of four years except that it should be extended to eight years, where income has escaped assessment in consequence of the assessee having concealed the particulars of his income or deliberately furnished inaccurate particulars of his income. The changes made in this clause and in clause 40 give effect to this decision.

The change of the expression "is of opinion" to "discovers" in sub-clause (a) of this clause brings the wording of sub-section (1) of section 34 into accord with the wording of the corresponding English provision. A minority of us desired further changes to be inserted in the sub-section.

Clause 42.—In the new clause (3) of sub-section (1) of section 38 proposed by the Bill we have substituted for the vague expression "or the like" the definite expression "royalty or brokerage, or any annuity not being an annuity taxable under the head 'Salaries'". The annuities so described are mainly those paid by life insurance companies.

We have revised the proposed sub-section (2) of section 38 so as to reduce the powers which the Bill proposed to give to Income-tax Officers and Inspectors. The wide powers of entry are taken away, and entry is made possible only when the Commissioner has given a written authorisation. A minority of us are still dissatisfied with the sub-section in the form which it now takes.

Clause 45.—No change has been made in this clause; but in connection with section 42 and section 43 of the Act we considered certain difficulties which arose in the application of the agency principle to “hedging and straddling” operations when these operations take place through a person carrying on a *bona fide* business as broker in British India and a foreign broker acting for an undisclosed foreign principal. We feel that some provision should be inserted in the Act to ensure that the British Indian broker shall not in such a case be deemed to be an agent of the foreign principal. The limited time at our disposal has prevented us from making specific provision to this end in the Bill, but we understand that Government will bring forward proposals on the subject at the consideration stage.

Clause 46.—The addition made to section 44 of the Act is intended to ensure that all privileges accorded by Chapter IV shall be available to an assessee assessed under this section.

Clause 48.—We have revised proposed section 44D and we have added two new sections to that which the clause proposed to insert in the Act.

The changes made in section 44D remove certain defects in the provisions relating to evasion of tax by transfer of assets. Transfers to persons resident in but not domiciled in British India are now covered, and by sub-section (2) evasion by transfers resulting in payment of income disguised in the form of loans, or payments made without adequate consideration, is provided for. By sub-section (3) it is provided that a transfer must be untainted by any purpose of avoidance in order to escape the mischief of the section, and the addition of a new clause in sub-section (7) clarifies the position of companies incorporated outside but resident in British India.

The new sections 44E and 44F are designed to prevent avoidance of tax by what are known as “bond-washing” transactions, involving the manipulation of securities so that the securities will pass temporarily into the legal ownership of some second person who is either not liable at all or liable in a lesser degree to tax, under such conditions that the interest on the securities is the income of this second person. A common form of the process is the sale of securities *cum* interest with a simultaneous contract to repurchase them *ex-interest*. Where foreign securities are concerned this second person may be a foreigner resident abroad entitled to claim exemption from the tax on the interest. More often a financial concern in India is utilised whose computation of profits includes the results of realising securities, so that the concern can profitably offer “bond-washing” facilities to the owner of securities bearing fixed interest, where the owner himself is not liable to taxation on the realisation of the securities.

Clause 51.—The new sub-section (2) inserted in section 48 as amended by this clause inserts the provisions of section 48A(2) which were incorrectly omitted when the present simplified section 48

was substituted for the whole of sections 48 and 48A. It preserves the power of the Assistant Commissioner and of the Commissioner to order refunds to be made.

The change made in sub-section (3) of section 48 is a drafting improvement.

Clause 53.—We have removed the two new sub-sections which were inserted in section 49 of the Act by this clause, and have reproduced their contents in new sections 49B and 49C dealt with in clause 54 of the Bill.

A minority of us desired to omit section 49 from the Act, and request that the Governor General's sanction to the moving of an amendment to this end, if held to be necessary, may be obtained.

Clause 54 (new clause).—The new section 49A introduced by this clause provides for the possibility of the grant of relief for double income-tax payments in certain cases to which section 49 does not apply. Sections 49B and 49C reproduce in a more appropriate place and form the provisions contained in sub-sections (2) and (3) of section 49 of the Act as it was recast by the Bill.

Clauses 55 (old 54) and 56 (old 55).—The changes made are consequential on the insertion of the new sections now numbered 49A, 49B and 49C.

Clause 57 (old 56).—The change of “six years” to “four years” is in accordance with the decision to which reference is made in our remarks on clause 39.

Clause 59 (old 58).—The alteration has the effect of removing the penalty otherwise imposable on failure to comply with the general notice issued under sub-section (1) of section 22 of the Act.

Clause 60 (old 59).—We have omitted the second sub-clause of this clause, thereby removing from section 52 of the Act the words “without prejudice to any other penalty to which he may be liable under the Indian Penal Code” which the Bill proposed to insert.

Clause 61 (old 60).—The change made has the effect of removing from section 53(2) of the Act the reference to stay of proceedings, and at the same time, while leaving to the Assistant Commissioner the power to compound offences, requires the leave of the Court to any composition made after an offence has come before the Court.

Clause 62 (old 61).—The alterations made in the clause have the effect of converting the three provisoes to sub-section (2) of section 54 of the Act into separate sub-sections, a form which we consider more appropriate in view of their contents. We have also added further matters to the list of those exempted from the ban on disclosure. These matters are contained in the new clause (d), dealing with suits in Civil Courts, clause (f), dealing with audit officers, clause (k), and clause (l) which makes specific provision allowing the details, necessary for establishing that a person is qualified to be an elector, to be disclosed to a Returning Officer.

Clause 68 (new clause).—This new clause removes from the Act sub-section (2) of section 58B which gave power to the Central Government to refuse recognition to or withdraw recognition from a provident fund.

Clause 73 (old 71).—The alteration of the clause has the effect, first, of substituting the words “the appropriate relief” in sub-section (2) of section 60 of the Act, for the expression “such relief as it may think fit” which we consider is unduly wide, and, secondly, of abolishing for the future the power to make any exemptions, reductions or modifications under sub-section (1). It is necessary to keep sub-section (1) so that orders rescinding exemptions now in existence may be made when necessary under the implied power imported into the sub-section by section 21 of the General Clauses Act, 1897. We have received an assurance that it is the intention of Government, in consonance with the general scheme contained in the Bill and simultaneously with its coming into operation, to rescind the exemptions numbered 20, 21, 22 and 23 in the list set forth in paragraph 17 of Part III of the Income-tax Manual.

Clause 74 (old 72).—We have substituted a more accurate revised definition of “accountant”. We have also recast sub-section (3) of section 61 of the Act, as amended by the Bill, so as to remove from the Commissioner of Income-tax the power to decide whether a lawyer or an accountant has been guilty of misconduct in connection with income-tax proceedings. We consider that the authorities ordinarily responsible for disciplinary action in the two professions concerned should deal with such matters as with other questions of discipline in those professions.

Clause 76 (old 74).—We have somewhat relaxed the stringency of the first proviso which the clause adds to sub-section (3) of section 64 of the Act, by providing that an assessee shall be debarred

from raising the question of the place of assessment only when he has stated his principal place of business in a return made, and by extending the time within which the question can be raised in other cases to the end of the time allowed for a return after a specific notice under section 22(2) or 34.

Clause 78 (new).—This clause adds to the Act the Schedule necessary to implement the decision announced in our remarks on clause 10 in connection with section 10(7) of the Act.

To the extent to which the changes made by us in section 16 of the Act by our enlargement of the connotation of the terms “settlement or disposition” and “settlor or disponent”, in section 23A of the Act by our extension of the scope of the section to other companies than those controlled by not more than five persons, in section 34 of the Act by our extension of the term over which income which has escaped assessment may be pursued in certain cases for eight years, and to the extent to which the new sections 44E and 44F render liable to tax moneys otherwise not liable, we recognise that the sanction given to the provisions of the Bill may require to be supplemented by specific sanction for these new provisions. We request that such sanction, if held to be necessary, and the sanction referred to in our remarks on clause 4, may be obtained.

2. The Bill was published in the Gazette of India, dated the 9th April, 1938.

3. We think that the Bill has not been so altered as to require re-publication.

*S. SATYAMURTI.

MINUTES OF DISSENT.

We generally agree with the provisions of the Bill as it emerges from the Select Committee, except on a few points on which we reserve our right to move amendments. Waqf-alal-Aulad stands on the same footing as other waqfs under

the Mohammadan Law and should have been exempted.

We regret to say that we could not persuade other members of the Committee to agree to our suggestion.

MOHD. YAMIN KHAN.

H. A. S. H. ESSAKI.

We have not been able to agree with the conclusions reached by the Select Committee on the following clauses :—

Clause 4 (section 4).

Clause 5 (New sections 4A and 4B).

Clause 17 (Old clause 16—section 16).

Clause 24 (Old clause 23—section 23).

Clause 26 (Old clause 25—section 24).

Clause 31 (Old clause 30—section 26).

Clause 34 (section 30).

Clause 39 (section 34).

Clause 42 (section 38).

Clause 53 (section 49).

Clause 54 (New clause).

We are further of opinion that there are certain respects in which the Bill is capable of further improvement and simplification.

The first point in this connection is that on a perusal of the Act and the Bill, we find that in some cases the underlying principle of a large number of sections and provisions dispersed in the Act is one and the same, but such principle is nowhere enunciated in its full form in the Act.

If we incorporate such principles in specific provisions—in as general a form as is consistent with the other provisions—it would very much simplify and render easily intelligible many of the provisions of the Act. For example, a section recognising the principle “No income of a person shall be liable to be taxed twice in his hands” will be easily understood, will simplify many of the provisions of the Act, and will remove certain doubts arising from the interpretation of some sections of the Act.

The second point that we have to mention is in respect of the adoption of the “slab” system. This change in the system of taxation is one of the fundamental changes contemplated by the Bill, but nowhere it has been directly recognised in the provisions of the Bill. Only the calculations contained in some clauses [*e.g.*, sub-clause (4) of section 15] contain certain words which raise a presumption of the adoption of a system different from the present one. To our mind that is too far fetched and insufficient, and the new system should be specifically described in the Act.

The last suggestion that we have to make is regarding the method of calculation of income-tax. This is to be found embodied in different sections and clauses of the Bill, dealing with the matter piece-meal, in widely varying language and even so, we are afraid, not covering all the cases dealt with by the Act itself. This is likely to create doubts in the minds of people. We would suggest that the system of calculation should be given at one place with the necessary details. This would very much simplify the provisions dealing with calculation of income-tax, if not render them wholly unnecessary.

We shall move suitable amendments in accordance with our views when the Bill is before the House for consideration of the clauses.

BHULABHAI J. DESAI.

S. SATYAMURTI.

MUHAMMAD AHMAD KAZMI.

B. B. VARMA.

K. K. MALAVIYA.

I am against the following clauses of the Bill, namely :—

- (1) The principle underlying clauses 4 and 5 of the Bill, which amend section 4 of the Act.
- (2) Clause 17 (a) and (b) of the Bill which amends section 16 of the Act.
- (3) Clause 21 of the Bill which amends section 20A of the Act.
- (4) Clause 31 of the Bill which amends section 26 of the Act.
- (5) Clause 32 of the Bill which amends section 28 of the Act.

(6) Clause 39 of the Bill which amends section 34 of the Act.

(7) Clause 42 of the Bill which amends section 38 of the Act.

I would like to draw the attention to the fact that provisions relating to Provident Fund should be extended to Superannuation Fund as well. Although, unfortunately, this matter was not actually discussed in the Select Committee, it was considered by members of the Select Committee. I will therefore move or support amendments in the House to give effect to the above provisions.

I also reserve to myself the right to move or support all amendments to the Bill which are in agreement with my views.

In addition to what has been said in the joint minute of dissent signed by me I want to make the following observations :—

I do not agree to the conclusions arrived at in the Select Committee particularly in respect of the following clauses for reasons indicated hereunder, and I reserve to myself and to my party the right to move suitable amendments in the open House :

Clause 4 (Section 4).

Clause 5 (New Sections 4A and 4B).

Clause 23 (Section 23).

Clause 42 (Section 38).

Clause 50 (Section 46).

Clause 53 (Section 49).

Clause 71 [Section 60 (7)].

One and one idea alone, from the beginning to the end, persists in the Bill. The desire of the Honourable Finance Member to collect as much revenue as possible and to make it impossible for any Indian, whosoever he may be, to escape the rigours of the Income-tax Law, is writ large in every word and line of the Bill. Extreme cases of tax-dodging have been imagined and sections to prevent these have been drawn up. Draconian laws have been proposed and wide powers have been given to the executive for the sake of a few tax-dodgers without any idea of the sections being fair or equitable. Provisions have even been introduced which have no analogy in the law or the practice of the United Kingdom, and really good provisions of the English Law have been ignored.

Any income-tax law, according to my way of thinking, must see that the assessee retains sufficient money for the needs of the wife, children

and dependants. English law grants personal allowances which are deducted before the income becomes taxable. One-fifth of the income not exceeding £300 is not taxable. Over and above this, there are the married man's allowance of £180, single person's allowance of £100, each child's allowance of £60 and in addition to these, there is the deduction in respect of dependent relatives. These personal allowances mitigate the incidence of taxation in United Kingdom, drive out the poverty from the doors, help in raising the standard of living and provide better maintenance and education for the children, but no such provisions exist in the proposed Income-tax Laws which are meant for a country where poverty is grinding, where a single wage earner has to support a large family and a large number of dependants and where it is impossible for a middle class man to give better education to his three or four children.

I maintain that personal allowances, on even a minor scale, should be the law of the land. One-fifth of the total income from all sources of the assessee from business, profession, vocation and salaries, etc., but not exceeding Rs. 1,800, should not be taxable. An allowance for the maintenance of each child to the tune of at least say Rs. 120 per annum should be provided for, and some allowance should also be granted for the maintenance of the wife and the dependants. Unless some such law is passed, the wolf of hunger, poverty, malnutrition, the low standard of living and the one thousand and one fatal diseases will be always knocking at our doors. The Bill, as it is drawn up, takes no account of the needs of the tax-payer or of the question whether any initiative will be left for assessee to show enterprise in business. 'Realize income-tax', 'realize more income-tax', 'realize most' seems to be the motto of the amending Bill.

A fundamental change has been introduced in regard to the taxation of foreign income. This change from the remittance to accrual basis has been universally condemned, but the Government is adamant. Our pioneer traders, who are trading in foreign countries, did not get any encourage-

In view of abnormal conditions prevailing in Burma, and the fact that Burma has been suddenly bodily separated from India perforce, only a year ago, I would urge that some provision should be made for not taxing agricultural incomes of Indian traders in Burma on accrual basis, when it has already paid a tax there and allow Indian traders a period of 15 years to adjust their investments. The price of agricultural land has already gone down and the knowledge that the Indian traders have to get rid of agricultural lands in Burma at any cost, will not help our nationals in realising even 50 per cent. of their investments.

Clause 5 : New Sections 4A and 4B : I am not satisfied with the decision of the Select Committee to delete the word "Central" from the definition of the residence of a firm or a company, and I would very much prefer to have the definition suggested by the Codification Committee to be incorporated into our Act to define the residence of a company, firm or other association of persons. I am not sure whether sterling companies incorporated in the United Kingdom and having substantial portion of their operations and management carried on in India would be treated as resident companies for purposes of this Act. My whole concern in suggesting that the Codification Committee's draft clause should be accepted is that companies incorporated outside British India but earning their profits out of their operations which are substantially carried on in British India should be treated as resident companies for all purposes of the Act, and I do not see what objection the Government should have to the acceptance of the Codification Committee's draft clause in preference to the deletion of the word "Central" from the proposed clause in the Bill.

Clause 23 : Sec. 23 : I am opposed to the new proposed sub-section (4) of section 23 whereby the Income-tax Officer may either refuse to register a firm or may cancel its registration, if it is already registered under certain circumstances.

Clause 42 : Sec. 38 : The suggestion which the Select Committee made in respect of clause 42 does not improve the clause materially, and I

am opposed to the insertion of new sub-section (2) to section 38. Such power of entering the premises, calling for and inspecting and stamping accounts of a person does not exist in the U. K. law, and I do not see any justification for the Government to resort to the inclusion of such a harassing section in the Act.

Clause 50 : Sec. 46 : I am opposed to the use of imprisonment in the process of realising arrears of Income-tax and though the Government Member assured me that only a very few persons have been arrested during all these years for default in payment of Income-tax, I am strongly opposed to the provision mentioned in the proviso to sub-section (2) of section 46 on principle. Property might be attached, put to auction, but the man should never be arrested and put in jail.

Clause 53 : Sec. 49 : I am of opinion that the Governor General should be approached to give permission to move an amendment in the open House for the deletion of section 49 of the Act which has been working to the prejudice of the Indian treasury and which is responsible for the loss of more than a crore of rupees to the country. I am strongly opposed to the retention of this section on the statute book.

Clause 71 : Sec. 60 (1). I accept the agreement reached in the Select Committee on this section provided the Finance Member agrees to redeem his assurances and promise of withdrawing the notifications in respect of items 20, 21, 22 and 23, which relate to allowances or salaries paid either into the United Kingdom or Colonies to Government Officers on leave or on duty, leave salaries or allowances paid into the United Kingdom or Colonies to officers of local authorities or to the employees of companies or of private employers on leave and vacation salaries paid into the United Kingdom or Colonies to Judges of High Courts or Chief Courts, etc., when on vacation.

K. K. MALAVIYA.

ment from the Government of India: they do not get any protection even from the Government; the Indian nationals have pushed their way through in face of tremendous odds and are maintaining their own. I am told they are even ousting Japanese trade and are introducing Indian mill cloth shirtings, *lungis*, *sarees* and one thousand and one other fabrics and are even underselling Japanese cheap fabrics; but the Government, which never gave any encouragement or protection to our nationals in their trading enterprises, is now anxious to tax their income on accrual basis in India. In the English Law, income from foreign possessions (excluding stocks, shares and rents) is taxed on remittance basis and business if not centrally controlled from United Kingdom and exclusively carried on outside United Kingdom is also treated as foreign possession (*vide* Colclounoun vs. Brooks), whereas income from stocks, shares and rents is only taxed on accrual basis. The Government even ignores the fact that no relief from double taxation is possible in regard to some of the countries where our nationals are trading. No provisos and exceptions have been provided which would mitigate the rigours of the proposed change. I, therefore, stand for the deletion of clause 4 altogether; failing this, I would add to the proposed sub-section (I) (b) (ii) after the words "such year" the words "from whatever source except business, profession or vocation."

I am for taxing the foreign income from business, profession and vocation on remittance basis only. It is wrong to assume that the Indian capital will be driven out of the country if foreign income is not taxed. Our objective should be to provide incentive to our nationals who are trading abroad. United Kingdom, United States of America, and every country in the world does its best to encourage foreign trade; nationals are encouraged to earn as much profits as they can and bring that into the country and add to the national wealth, but in our unfortunate country, the Government, it seems, is anxious to put the foreign trade at a discount and handicap its development.

Clause 4, Section 4.—With regard to the basis of assessment introduced by the amending Bill under clause 4, I am opposed to the proposed accrual basis, particularly in respect of income arising abroad as a result of Indian enterprise pioneered by our own nationals in foreign countries. I do not see any justification for the Government of India to seek to assess this income when they have not been affording any encouragement to our nationals in their trading enterprise, and when they have not been offering any protection to them in times of necessity. The Government of the United Kingdom may be justified in assessing the income arising abroad from business because they are able to afford adequate protection to their nationals in foreign countries, but the Government of India certainly have no justification to adopt similar measures when they are helpless either to protect or encourage such enterprise abroad. The Government of India have neither the diplomatic nor consular representatives in foreign countries and the protection which they profess to offer through British diplomatic or consular services is practically next to nothing in case of necessity. The plea put forward by the Finance Member that the clause aims at restricting the flight of Indian capital from this country can be met if we try to tax the income

arising abroad out of investments in foreign countries. The Select Committee was not supplied with any figures as to the extent of Indian capital invested in foreign countries. I am, as I have stated above, therefore, entirely opposed to tax the income from trading activities of our own people who have gone out of this country in a spirit of adventure in the past and who are trying to develop India's trade with foreign countries by creating direct connections through Indian agencies. The Indian capital invested even at the beginning in such trading concerns is comparatively small as a number of such concerns, instead of depending upon the supply of capital from India, utilize their profits earned locally to develop their own trade abroad. We do, therefore, stand to lose very little if the case of income from business outside British India is treated differently from that of investments abroad.

The profits arising out of such operations should be assessed on remittance basis, as whatever surplus profits they remit to this country should be taxed after meeting their local trade requirements. It should be noted that the Finance Act of the United Kingdom, prior to the Great War, in 1914, was based on this principle of remittance in respect of their incomes arising out of their trading activities in foreign countries. Even under the present Finance Act, foreign income of British companies, firms or individuals, which are not controlled at Home is not taxed on accrual basis but is only taxed when remitted to the United Kingdom. I am, therefore, opposed to clause 4 as decided upon by the Select Committee.

The wording of the old Indian Income-tax Law warranted the taxing of all incomes accruing in India; but the Government of India, by their subtle interpretation of the law, changed the law completely and the result was that all incomes accruing in India but sent abroad were exempted from the Indian Income-tax. This was done in the interests of the foreigners, resident, non-resident, domicile or non-domicile in India, and in the interest of foreign companies trading in India. Under the operation of this interpretation, all incomes from sterling securities of the Government of India and from sterling debentures of companies trading in India became exempt from the operation of our Income-tax Law.

The Government now, in order to provide more strings to their purse, are anxious to tax the income of our Indian traders abroad whether received or not received in this country. This, I declare, will cripple our foreign trade and leave no incentive to our pioneer traders to go out and earn incomes abroad.

We have also made no differentiation between an earned and an unearned income. Almost all, if not all, the countries where Income-tax Law prevails, recognise some such differentiation. Most of the countries, even in the British Commonwealth of Nations, pay homage to this principle of differentiation but in our amending Bill, no such differentiation has been made. The Government has not also taken into account the economic depression and the changing moods of the foreign people. Abyssinia and Burma are striking instances. The lot of Indians trading in Burma to-day, especially those who have been saddled with unwanted large areas of agricultural land, is not enviable.

L. A. BILL No. 11 OF 1938.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]*A Bill further to amend the Indian Income-tax Act, 1922.*

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes herein-after appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1938. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act),— Amendment of section 2, Act XI of 1922.

(a) in clause (3), before the word "Assistant", in both places where it occurs, the word "Appellate" shall be inserted;

(b) after clause (6) the following clause shall be inserted, namely:—

"(6A) 'dividend' includes—"

(a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(b) any distribution by a company of debentures or debenture-stock, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(c) any distribution made to the shareholders of a company out of accumulated profits of the company on the liquidation of the company:

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included; and

(d) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not;";

(c) existing clause (6A) shall be re-numbered as clause (6B) and, in that clause as so re-numbered, for the words and figures "the Indian Contract Act, 1872;" the words and figures "the Indian Partnership Act, 1932:" shall be substituted, and the following words shall be added, namely:—

"provided that the expression 'partner' includes any person who being a minor has been admitted to the benefits of partnership;

(d) after clause (6B) as so re-numbered the following clauses shall be inserted, namely:—

"(6C) 'income' includes anything included in 'dividend' as defined in clause (6A) and anything which under *Explanation 2* to sub-section (1) of section 7 is a profit received in lieu of salary for the purposes of that sub-section;

(6D) 'Inspecting Assistant Commissioner' means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5

(6E) 'Income-tax Inspector' means a person appointed to be an Income-tax Inspector under section 5 ;

(e) in clause (11),—

(i) after the word "means" the following words shall be inserted, namely :—

"in respect of any separate source of income, profits and gains";

(ii) for the proviso to sub-clause (a) the following proviso shall be substituted, namely :—

"Provided that where an assessee has once been assessed in respect of a particular source of income, profits and gains, he shall not in respect of that source exercise this option so as to vary the meaning of the expression 'previous year' as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit; or";

(iii) after sub-clause (b) the following shall be added, namely :—

"or

(c) where a business, profession or vocation has been newly set up, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following, or if the accounts of the assessee are made up to some other date than the 31st day of March, then, at the option of the assessee the period from the date of the setting up of the business, profession or vocation to such other date :

Provided that when such other date does not fall between the setting up of the business, profession or vocation and the next following 31st day of March, it shall be deemed that there is no previous year ; and

when the assessee is a partner in a firm, 'previous year' in respect of his share of the income, profits and gains of the firm means the previous year as determined for the assessment of the income, profits and gains of the firm ;"; and

(f) in clause (15), for the words "from all sources to which this Act applies" the words, brackets and figures "referred to in sub-section (1) of section 4" shall be substituted, for the word and figures "section 16" the words "this Act" shall be substituted, and the following words shall be added, namely :—

'total world income' includes all income, profits and gains which if arising, accruing or received in British India would be included in total income; and"

3. In section 3 of the said Act, the words "applicable to the total income of an assessee" shall be omitted, the word "all" the words "the total" shall be substituted, and for the words "company, firm and other association of individuals" the words "company and local authority, and of every firm and other association of persons or the partners of the firm or members of the association individually" shall be substituted.

4. In section 4 of the said Act,—

- (a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

Amendment of
section 4, Act
XI of 1922.

“(1) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which—

- (a) are received or are deemed to be received in British India in such year by or on behalf of such person, and
- (b) if such person is resident in British India during such year,—
 - (i) accrue or arise or are deemed to accrue or arise to him in British India during such year, or
 - (ii) accrue or arise to him without British India during such year, or
 - (iii) having accrued or arisen to him without British India before the beginning of such year and after the 1st day of April, 1933, are brought into or received in British India by him during such year ; and
- (c) if such person is not resident in British India during such year, accrue or arise or are deemed to accrue or arise to him in British India during such year :

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub-clause (ii) of clause (b) and the amount of the income, profits and gains referred to in sub-clause (iii) of clause (b) but only the greater of these two amounts :

Provided further that, in the case of a person resident but not domiciled in British India, income, profits and gains which accrue or arise to him without British India shall not be so included unless they are derived from a business, profession or vocation or unless they are brought into or received in British India by him during such year.

Explanation 1.—Income, profits and gains accruing or arising without British India shall not be deemed to be received in or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance-sheet prepared in British India.

Explanation 2.—Income which would be chargeable under the head ‘Salaries’ if payable in British India and not being pension payable without India shall be deemed to accrue or arise in British India wherever paid if it is earned in British India.

Explanation 3.—A dividend paid without British India shall be deemed to be income accruing and arising in British India to the extent to which it has been paid out of profits subjected to income-tax in British India.

- (2) For the purposes of sub-section (1), where a husband is not resident in British India remittances received by his wife resident in British India out of any part of his income which is not included in his total income shall be deemed to be income accruing in British India to the wife.”;

(b) in sub-section (3),—

- (i) for the words "This Act shall not apply to the following classes of income" the words "Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them" shall be substituted;
- (ii) after clause (i) the following clause shall be inserted, namely :—
 - "(ia) Any income derived from business carried on on behalf of a religious or charitable institution when the income is applied solely to the purposes of the institution and—
 - (a) the business is carried on in the course of the carrying out of a primary purpose of the institution, or
 - (b) the work in connection with the business is mainly carried on by beneficiaries of the institution."
- (iii) to clause (iii) the following words shall be added, namely :—
 - "except income from a trade or business carried on by the authority so far as that income is not income arising from the supply of a commodity or service within its own jurisdictional area";
- (iv) in clause (iv), for the figures "1897" the figures "1925" shall be substituted;
- (v) clause (v) shall be omitted;
- (vi) to the last paragraph the following words shall be added, namely :—
 - " , but nothing contained in clause (i), clause (ia) or clause (ii) shall operate to exempt from the provisions of this Act any income of a private religious trust where the trust does not enure to the benefit of the public "

i. After section 4 of the said Act and in Chapter I following sections shall be inserted, namely :—

" 4A. For the purposes of this Act—

- (a) any individual is resident in British India in any year if he—
 - (i) is in British India in that year for a period amounting in all to one hundred and eighty-two days or more; or
 - (ii) maintains or has maintained for him a dwelling place in British India for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in British India for any time in that year; or
 - (iii) having within the four years preceding that year been in British India for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in British India for any time in that year otherwise than on an occasional or casual visit; and
- (b) a Hindu undivided family, company, firm or other association of persons is resident in British India unless the * control and management of its affairs is situated wholly without British India.

4B. For the purposes of this Act—

- (a) a Hindu undivided family is deemed to have the domicile of its manager; and
- (b) a company, firm or other association of persons is domiciled in British India if it is resident in British India."

6. For section 5 of the said Act the following section shall be substituted, namely :—

“ 5. (1) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely :—

- (a) the Central Board of Revenue,
- (b) Commissioners of Income-tax,
- (c) Assistant Commissioners of Income-tax who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,
- (d) Income-tax Officers, and
- (e) Income-tax Inspectors.

- (2) The Central Government may appoint a Commissioner of Income-tax for any area specified in the order of appointment, and may appoint Commissioners of Income-tax, not more than three in all, each to discharge, without reference to area, and to the exclusion of any Commissioner appointed for any area, the functions of a Commissioner in respect of any cases or classes of cases assigned to him by the Central Board of Revenue.
- (3) The Central Government may appoint for any area as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers as it thinks fit.
- (4) The Commissioner of Income-tax may appoint Income-tax Inspectors and may determine the areas in which they shall discharge their functions.
- (5) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons or classes of persons and of such incomes or classes of income and in respect of such areas as the Central Board of Revenue may direct, and, where two or more Appellate Assistant Commissioners have been appointed for the same area, in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed.
- (6) Inspecting Assistant Commissioners of Income-tax and Income-tax Officers shall perform their functions in respect of such persons or classes of persons and of such incomes or classes of income and in respect of such areas as the Commissioner of Income-tax may direct, and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area, in accordance with any orders which the Commissioner of Income-tax may make for the distribution and allocation of the work to be performed. The Commissioner may, with the previous approval of the Central Board of Revenue, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively.
- (7) The Central Board of Revenue may, by notification in the official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income and for such area as may be specified in the

notification, and thereupon the functions so specified shall cease within the specified area to be performed in respect of the specified classes of persons or classes of income by the authorities appointed under sub-sections (2) and (6).

- (8) Assistant Commissioners of Income-tax, Income-tax Officers and Income-tax Inspectors shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax for the area in which they perform their functions or where they perform functions assigned to them by a Commissioner of Income-tax appointed without reference to area, to that Commissioner.

- (9) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue :

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions."

Amendment of section 6, Act XI of 1922.

7. In section 6 of the said Act, for clauses (iii), (iv), (v) and (vi) the following clauses shall be substituted, namely :—

- "(iii) Income from property.
(iv) Profits and gains of business, profession or vocation.
(v) Income from other sources."

Amendment of section 7, Act XI of 1922.

8. In sub-section (1) of section 7 of the said Act,—

- (a) the words "received by him" shall be omitted ;
(b) for the words "which are paid by or on behalf of the Crown" the words "which are due to him from, whether paid or not, or are paid by or on behalf of, the Crown" shall be substituted ;
(c) for the words "by or on behalf of any private employer" the following words shall be substituted, namely :—

any private employer ; and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received ;

and

- (d) the existing *Explanation* shall be numbered *Explanation 1* and, after that *Explanation* the following *Explanation* shall be added, namely :—

"*Explanation 2*.—A payment due to or received by an assessee from an employer or former employer or from a provident or other fund at or in connection with the termination of his employment, whether or not the employment is then terminated or to be terminated, is a profit received in lieu of salary for the purposes of this sub-section, unless the payment is made solely as compensation for loss of employment and not by way of remuneration for past services :

Provided that nothing herein contained shall render liable to income-tax any payment from a provident fund to which the Provident Funds Act, 1925, applies, or any payment from a recognised provident fund within the meaning of Chapter IXA if such payment is exempted from payment of income-tax under the provisions of Chapter IXA."

Amendment of section 9, Act XI of 1922.

9. In section 9 of the said Act,—

- (a) in sub-section (1),—
(i) for the words "under the head 'Property'" the words "under the head 'Income from Property'" shall be substituted, and for the words "his business" the words "any business, profession or vocation carried on by him the profits of which are assessable to tax" shall be substituted ;

Provided further that there shall not be so deducted from the actual cost any depreciation allowance or part of any depreciation allowance which was due for a year which ended prior to the 1st day of April, 1939, but to which full effect was not given owing to the absence of profits or gains chargeable for that year, or owing to the profits or gains so chargeable being less than the allowance.

- (6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly.
- (7) Notwithstanding anything to the contrary contained in section 8, 9, 10, 12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act."

1. Section 11 of the said Act shall be omitted.

2. In section 12 of the said Act,—

(a) in sub-section (1), for the words "Other sources" the words "Income from other sources" shall be substituted, and for the words "and from every source to which this Act applies" the words "which may be included in his total income" shall be substituted;

(b) in sub-section (2), for the words "provided that no allowance shall be made on account of any personal expenses of the assessee" the following shall be substituted, namely:—

"provided that no allowance shall be made or account of—

(a) any personal expenses of the assessee, or

(b) any interest chargeable under this Act which is payable without British India not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or

(c) any payment which is chargeable under the head 'Salaries', if it is payable without British India and * tax has not been paid thereon nor deducted therefrom under section 18."

(c) after sub-section (2) the following sub-section shall be added, namely:—

(3) Where an assessee lets on hire machinery plant or furniture belonging to him, he shall be entitled to an allowance in respect of depreciation in accordance with the provision of clause (vi) of sub-section (2) of section 10."

13. After section 12 of the said Act the following section shall be inserted, namely:—

12A. Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement."

14. In section 13 of the said Act the figures "11" shall be omitted.

(c) for sub-section (3) the following sub-sections shall be substituted, namely :—

“(3) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (iv), clause (v), clause (vi) or clause (vii) of sub-section (2) is not wholly used for the purposes of the business, profession or vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used.

(4) Nothing in clause (ix) or clause (xii) of sub-section (2) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains except income-tax or super-tax paid without British India in a State or country with which British India has not made arrangements for double income-tax relief; and nothing in clause (xii) of sub-section (2) shall be deemed to authorise—

(a) any allowance in respect of a payment which is chargeable under the head ‘Salaries’ if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18; or

(b) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to any partner of the firm; or

(c) any allowance in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head ‘Salaries’.

) In sub-section (2), ‘paid’ means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section; ‘plant’ includes vehicles or books purchased for the purposes of the business, profession or vocation; and ‘written down value’ means—

(a) in the case of assets acquired in the previous year, the actual cost to the assessee;

(b) in the case of assets acquired before the previous year but after the commencement of the Indian Income-tax (Amendment) Act, 1938, the actual cost to the assessee less all depreciation allowable to him under this section;

(c) in the case of assets acquired before the commencement of the Indian Income-tax (Amendment) Act, 1938, the actual cost to the assessee less for each financial year since acquisition the amount of depreciation applicable to the assets at the rates in force for each such year since the 1st day of April, 1922, and at the rates in force on the 1st day of April, 1922, for each such year prior to that date:

Provided that where the provisions of the proviso to sub-section (2) of section 26 are applicable, the actual cost to the assessee referred to in clauses (a), (b) and (c) shall be the actual cost to the person succeeded in the business, profession or vocation:

(iii) in clause (vi),—

(a) for the words “ original cost thereof to the assessee ” the words “ written down value thereof ” shall be substituted ;

(b) in clause (b) of the proviso, after the words “ in any year ” the words and figures “ not being a year which ended prior to the 1st day of April, 1939 ” shall be inserted ;

(iv) for clause (vii) the following clause shall be substituted, namely :—

“ (vii) in respect of any machinery or plant which has been sold or discarded, the amount by which the written down value of the machinery or plant exceeds the amount for which the machinery or plant is actually sold or its scrap value :

Provided that such amount is actually written off in the books of the assessee :

Provided further that where the amount for which any such machinery or plant is sold exceeds the written down value, the excess shall be deemed to be profits of the previous year in which the sale took place ;” ;

(v) clauses (viiia), (viii) and (viiia) shall be re-numbered, respectively, clause (viii), clause (ix) and clause (x), and in clause (c) of the proviso to the clause re-numbered clause (x) for the word “ businesses ” the words “ businesses, professions or vocations ” shall be substituted ;

(vi) after clause (x) as re-numbered by this Act the following clause shall be inserted, namely :—

“ (xi) when the assessee’s accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, incurred in respect of that part of his business, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee :

Provided that if the amount ultimately recovered on any such debt is greater than the difference between the whole debt and the amount so allowed, the excess shall be deemed to be a profit of the year in which it is recovered and if less, the deficiency shall be deemed to be a business expense of that year ;”

(vii) existing clause (ix) shall be re-numbered (xii) and in that clause for the brackets and words “ (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains ” the brackets and words “ (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation ” shall be substituted and the proviso at the end of that clause shall be omitted ;

(ii) for clause (iv) the following clause shall be substituted, namely :—

“(iv) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge ; where the property is subject to an annual charge not being a capital charge, the amount of such charge ; where the property is subject to a ground rent, the amount of such ground rent ; and where the property has been acquired, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital :

Provided that no allowance shall be made in respect of any interest or annual charge payable without British India and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax has been deducted under section 18 ;” ;

iii) for clause (vii) the following clause shall be substituted, namely :—

“(vii) in respect of vacancies, that part of the net annual value, after deducting the foregoing allowances, which is proportional to the period during which the property is wholly unoccupied ;” ;

iv) the proviso shall be omitted ;

in sub-section (2), the proviso shall be omitted ;

after sub-section (2) the following sub-section shall be added, namely :—

(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income.”

in section 10 of the said Act,—

in sub-section (1), for the word “ Business ”, where it first occurs, the words “ Profits and gains of business, profession or vocation ” shall be substituted, and for the word “ business ” in all other places where it occurs throughout the section, the words “ business, profession or vocation ” shall be substituted ;

in sub-section (2),—

in clause (i), for the words “ proportional part ” the words “ proportional annual value of the part ” shall be substituted ;

in clause (iii), the words “ where the payment of interest thereon is not in any way dependent on the earning of profits ” shall be omitted ; and to the clause the following proviso shall be added, namely :—

Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18, or, in the case of a firm, for any interest paid to a partner of the firm ;” ;

15. For sub-section (2) of section 14 of the said Act the following sub-section shall be substituted, ^{Amendment of section 14, Act XI of 1922.} namely :—

“(2) The tax shall not be payable by an assessee—

- (a) if a partner of an unregistered firm, in respect of any portion of the amount which he is entitled to receive from the firm on which the tax has already been paid by the firm ; or
- (b) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association.”

16. In section 15 of the said Act,—

- (a) in sub-section (1), for the figures “ 1897 ” the figures “ 1925 ” shall be substituted ;
- (b) in sub-section (3), for the words “ one-sixth of the total income of the assessee ” the following words shall be substituted, namely :—

“ in the case of an individual, one-sixth of the total income of the assessee, or six thousand rupees, whichever is less, and in the case of a Hindu undivided family, one-sixth of the total income of the assessee, or twelve thousand rupees, whichever is less ” ;

- (c) after sub-section (3) the following sub-section shall be added, namely :—

“(4) Effect shall be given to any exemption under this section or under the proviso to sub-section (1) of section 7, or under sub-section (1) of section 58F by deducting from the tax which but for the exemption would be payable on the total income of the assessee an amount calculated by applying to the sums so exempted a rate of tax representing the average of the rates applicable to that total income.”

17. In section 16 of the said Act,—

- (a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

“(1) In computing the total income of an assessee—

- (a) any sums exempted under the proviso to sub-section (1) of section 7, the second and third provisos to section 8, sub-section (2) of section 14 and section 15 shall be included ;
- (b) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year :

Provided that if his share so computed is a loss, such loss may be set off under the provisions of section 24 ;

- (c) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1938, from assets remaining the property

of the settlor or disponent shall be deemed to be income of the settlor or disponent, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor :

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponent or transferor, or in any way gives the settlor, disponent or transferor a right to reassume power directly or indirectly over the income or assets :

Provided further that the expression 'settlement or disposition' shall for the purposes of this clause include any disposition, trust, covenant, agreement, or arrangement, and the expression 'settlor or disponent' in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made.

- (2) For the purposes of inclusion in the total income of an assessee any dividend shall be deemed to be income of the year in which it is paid, credited or distributed or deemed to have been paid, credited or distributed to him, and shall be increased by the amount of income-tax (but not super-tax) payable thereon calculated at the rate applicable to the total income of a company for the financial year in which the dividend is paid, credited or distributed or deemed to have been paid, credited or distributed :

Provided that when any portion of the profits and gains of the company out of which such dividend has been paid, credited or distributed or deemed to have been paid, credited or distributed was not liable to income-tax in the hands of the company, the income-tax to be added under this section shall be calculated upon only such proportion of the dividend as the amount of the profits and gains of the company liable to income-tax bears to the total profits and gains of the company." ;

- (b) in clause (b) of sub-section (3), for the words "association of individuals" the words "person or association of persons" shall be substituted, the words "consisting of such individual and his wife" shall be omitted, for the words "to the association" the words "otherwise than for adequate consideration to the person or association" shall be substituted, and to the clause the words "for the benefit of his wife or a minor child or both" shall be added.

18. For section 17 of the said Act the following section shall be substituted, namely :—

" 17. * * * *

- (I) Where a person is not resident in British India, and is a British subject as defined in section 17 of the British Nationality and Status of Aliens Act, 1914, or a subject of a State in India or Burma, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on his

- (g) in sub-section (3C) as re-numbered by this Act, after the words "Interest on Securities" the words "or any other sum chargeable under this Act" shall be inserted; for the words "pays to that person in any year an amount of such interest" the words "makes to that person in any year payments" shall be substituted; for the words "paying such interest" the words "making such payments" shall be substituted; for the word, brackets, figure and letter "sub-section (3A)" the word, brackets, figure and letter "sub-section (3B)" shall be substituted; the words "income-tax on the total amount of such interest at the rate appropriate to such total, and" shall be omitted; and for the words "such total" the words "the total amount of such payments" shall be substituted;
- (h) in sub-section (3D) as re-numbered by this Act, for the words "total income" the words "total world income" shall be substituted;
- (i) in sub-section (3E) as re-numbered by this Act, for the word, brackets, figure and letter "sub-section (3C)" the word, brackets, figure and letter "sub-section (3D)" shall be substituted;
- (j) in sub-section (5), after the word "section" the words, brackets and figures "and any sum by which a dividend has been increased under sub-section (2) of section 16" shall be inserted, and after the word "security" the words "or of the shareholder" shall be inserted;
- (k) in sub-section (7), for the word "he", where it first occurs, the words, brackets, figures and letters "he, and in the cases specified in sub-sections (3D) and (3E) the company of which he is the principal officer shall" shall be substituted, and for the word "he", where it occurs for the second time, the words "he or it" shall be substituted;
- (l) in sub-section (9), for the words "at the time of payment of interest or dividends" the words "at the time of payment of the sum from which tax has been deducted" shall be substituted, and for the word, brackets, figure and letter "or (3D)" the word, brackets, figures and letters "(3D) or (3E)" shall be substituted.

20. For section 19 of the said Act the following section shall be substituted, namely:—

"19. In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct."

21. In section 20A of the said Act, for the words "one thousand" the words "two hundred" shall be substituted.

22. In section 21 of the said Act,—

- (a) after the words "in the prescribed form" the words "and verified in the prescribed manner" shall be inserted;
- (b) in clause (c), after the word "income-tax" the words "and super-tax" shall be inserted.

23. In section 22 of the said Act,—

- (a) for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) The Income-tax Officer shall, on or before the 1st day of May in each year, give notice,

total world income had it arisen in British India the same proportion as his total income bears to his total world income; and in the case of any other non-resident person, the income-tax payable by him or on his behalf on his total income shall be at the maximum rate and the super-tax payable thereon shall be an amount bearing to the total amount of super-tax which would have been payable on his total world income had it arisen in British India the same proportion as his total income bears to his total world income.

- (2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the tax payable by the assessee shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income."

19. In section 18 of the said Act,—

Amendment of
section 18, Act
XI of 1922.

- (a) in sub-section (2), for the words " but not super-tax " the words " and super-tax " shall be substituted, and for the words " at the rate applicable to the estimated income of the assessee under this head " the words " at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head " shall be substituted ;
- (b) after sub-section (2A) the following sub-section shall be inserted, namely :—
 "(2B) Any person responsible for paying any income chargeable under the head 'Salaries' to a person not resident in British India shall at the time of payment deduct income-tax at the maximum rate and also super-tax at the rate or rates applicable to the estimated income of the assessee under this head."
- (c) in the proviso to sub-section (3), after the words " the total income " the words " or the total world income " shall be inserted and for the words " herein referred to " the words, brackets, figure and letter " referred to in this sub-section or in sub-section (2B), as the case may be, " shall be substituted ;
- (d) after sub-section (3) the following sub-section shall be inserted, namely :—
 "(3A) Any person responsible for paying to a person not resident in British India any interest not being 'Interest on Securities', or any other sum chargeable under the provisions of this Act, shall, unless he is himself liable to pay income-tax thereon as an agent, deduct income-tax therefrom at the maximum rate."
- (e) existing sub-sections (3A), (3B), (3C) and (3D) shall be re-numbered, respectively, (3B), (3C), (3D) and (3E);
- (f) in sub-section (3E) as re-numbered by this Act, for the words " total income ", in both places where they occur, the words " total world income " shall be substituted ; after the words " Interest on Securities, " the words " or any other sum chargeable under this Act " shall be inserted ; for the words " paying such interest " the words " making such payments " shall be substituted and the words " income-tax and " shall be omitted ;

head 'Profits and gains of business, profession or vocation', and the loss cannot be wholly set off under sub-section (1), the portion not so set off shall be carried forward to the following year and set off against the profits and gains, if any, of the assessee from the same business, profession or vocation for that year; and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on; but no loss shall be so carried forward for more than six years, and a loss arising in the previous years for the assessment for the years 1939-40, 1940-41, 1941-42, 1942-43 and 1943-44, respectively, shall be carried forward only for one, two, three, four and five years, respectively:

Provided that nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, to have carried forward and set off against his own income any loss sustained by the firm:

Provided further that where a change has occurred in the constitution of a firm or where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains.

(3) When in the course of the assessment of the total income of any assessee it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section."

Amendment of
section 24A,
Act XI of
1922.

27. In section 24A of the said Act,—

- (a) in sub-section (1), for the words beginning "for the period from the expiry of the last previous year" and ending "for the financial year in which such assessment is made" the following words shall be substituted, namely:—
"of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from British India, or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from British India. The assessment shall be made on the total income of each completed previous year included in such period at the rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income-tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made";
- (b) in sub-section (2), for the words "comprised in the period first referred to in" the words "comprised in the relevant period referred to in the first sentence of" shall be substituted.

Provided further that no order under this sub-section shall be made where the company has distributed not less than fifty-five per cent. of the assessable income of the company, unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than sixty per cent. of the profits and gains of the company for the year or period concerned :” ;

ii) in the proviso, after the word “ Provided ” the word “ further ” shall be inserted and the words “ which is a subsidiary company or ” shall be omitted ;

iii) in the *Explanation*, the whole of clause (a), the brackets and letter “ (b) ” and the whole of clauses (c) and (d) shall be omitted ;

sub-section (3) shall be omitted ;

sub-sections (4) and (5) shall be re-numbered, respectively, sub-sections (2) and (3), and in sub-section (2) as so re-numbered—

i) paragraph (i) shall be omitted ;

ii) in paragraph (ii), for the word, brackets and figure “ sub-section (2) ” the word, brackets and figure “ sub-section (1) ” shall be substituted ; for the words “ and may be recovered from such member ” the words “ if it cannot be recovered from such member ” shall be substituted and the words following those words shall be omitted ;

iii) in paragraph (iii), the words “, firm or other association ” and the words “, firm or association ” shall be omitted ;

after sub-section (3), as re-numbered by the foregoing clause, the following sub-section shall be added, namely :—

(4) When a company is a shareholder deemed under sub-section (1) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total income for the purpose also of the application of that sub-section to distributions of profits by that company.”

In section 24 of the said Act —

to sub-section (1) the following proviso shall be added, namely :—

“ Provided that where the assessee is an un-registered firm which has not been assessed under the provisions of clause (b) of sub-section (5) of section 23 in the manner applicable to a registered firm, any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm ; and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section.” ;

for sub-section (2) the following sub-sections shall be substituted, namely :—

(2) Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year 1939-40, under the

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward under section 24 :

Provided further that when any of such partners is a person not resident in British India his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm ; and

- (b) in the case of an unregistered firm, the Income-tax Officer may instead of determining the sum payable by the firm itself proceed in the manner laid down in clause (a) as applicable to a registered firm, if, in his opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm."

Amendment of
section 23A,
Act XI of
1922.

25. In section 23A of the said Act,—

- (a) sub-section (1) shall be omitted ;
(b) sub-section (2) shall be re-numbered sub-section (1), and
(i) for the portion of the said sub-section preceding the proviso the following shall be substituted, namely :—

"(1) Where the Income-tax Officer is satisfied

* * *

that for any year or period the profits and gains distributed as dividends by any company up to the end of the sixth month after its accounts for that year or period are laid before the company in general meeting increased by any income-tax payable thereon are less than sixty per cent. of the assessable income of the company for that year or period, he shall, unless he is satisfied that having regard to losses incurred by the company in previous years or to the smallness of the profit made, the payment of a dividend would be unreasonable, make with the previous approval of the Inspecting Assistant Commissioner an order in writing that the undistributed portion of the profits and gains of the company for that year or period as computed for income-tax purposes shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting aforesaid, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income :

power to
assess indivi-
dual members
of certain com-
panies.

Provided that when the reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid up capital of the company, together with any loan capital which is the property of the shareholders, or the value of the fixed assets of the company whichever of these is greater, this section shall apply as if instead of the words 'sixty per cent. of the assessable income' the words 'one hundred per cent. of the assessable income' were substituted ;

by publication in the press and by publication in the prescribed manner, requiring every person whose income exceeds the maximum amount which is not chargeable to income-tax to furnish, within such period not being less than thirty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total income during the previous year :

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.” ;

- b) in sub-section (2), the words “other than a company” shall be omitted, and for the words “shall serve” the words “may serve” shall be substituted ;
- c) in sub-section (3), the words “and any return so made shall be deemed to be a return made in due time under this section” shall be omitted ;
- d) in sub-section (4), the words “on the principal officer of any company or” shall be omitted ; and
- e) after sub-section (4) the following sub-section shall be added, namely :—

“(5) The prescribed form of the return referred to in sub-section (1) and sub-section (2) shall, in the case of an assessee engaged in business, require him to furnish particulars of the location and style of his principal place of business and of his branch businesses, if any, the names and addresses of his partners in any business and the extent of his share and the shares of all such partners in the profits of such business or businesses.”

1. In section 23 of the said Act,—

Am.
sect.
XI.

a) in sub-section (4),—

- (i) for the words beginning “If the principal officer” and ending “as the case may be” the words, brackets and figures “If any person fails to make the return required by any notice given under * * * sub-section (2) of section 22 and has not made a return or a revised return under sub-section (3) of the same section” shall be substituted ;

(ii) after the word “judgment” the words “and determine the sum payable by the assessee on the basis of such assessment” shall be inserted ;

(iii) for the words “in the case of a registered firm, may cancel its registration” the words “in the case of a firm, may refuse to register it or may cancel its registration if it is already registered” shall be substituted ;

b) after sub-section (4) the following sub-section shall be added, namely :—

“(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be,—

- (a) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined :

28. In section 24B of the said Act,—Amendment of
section 24B,
Act XI of
1922.

- (a) for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 22 or before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall,

* * *

on the serving of the notice under sub-section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee.”;

- (b) in sub-section (3), the words, brackets and figure “of sub-section (2)” shall be omitted and after the words “and for this purpose may” the following words shall be inserted, namely :—

“by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived.”.

29. In section 25 of the said Act,—Amendment of
section 25,
Act XI of
1922.

- (a) in sub-section (3), after the words “is discontinued” the words “then, unless there has been a succession by virtue of which the provisions of sub-section (4) have been rendered applicable,” shall be inserted;

- (b) after sub-section (3) the following sub-sections shall be inserted, namely :—

“(4) Where the person who was at the commencement of the Indian Income-tax (Amendment) Act, 1938, carrying on any business, profession or vocation on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is succeeded in such capacity by another person, the change not being merely a change in the constitution of a partnership, no tax shall be payable by the first mentioned person in respect of the income, profits and gains of the period between the end of the previous year and the date of such succession, and such person may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and, if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

- (5) No claim to the relief afforded under sub-section (3) or sub-section (4) shall be entertained unless it is made before the expiry of one year from the date on which the business, profession or vocation was discontinued or the succession took place, as the case may be.”; and

- (c) existing sub-section (4) shall be re-numbered sub-section (6), and in that sub-section so re-numbered, for the words, brackets and figures “sub-section (1) or, sub-section (3)” the words, brackets and figures “sub-section (1), sub-section (3) or sub-section (4)” shall be substituted.

Amendment of
section 25A,
Act XI of
1922.

30. In sub-section (2) of section 25A of the said Act, after the words "Where such an order has been passed" the words "or where any person has succeeded to a business, profession or vocation formerly carried on by a Hindu undivided family which has been partitioned on or after the last day on which it carried on such business, profession or vocation" shall be inserted.

Amendment of
section 26,
Act XI of
1922.

31. In section 26 of the said Act,—

(a) in sub-section (1), for the words beginning "the assessments on the firm" and ending "proportionate to his interest in the firm" the words "the assessment shall be made on the firm as constituted" shall be substituted, and to the said sub-section the following provisoes shall be added, namely:—

"Provided that the income, profits and gains of the previous year shall for the purpose of inclusion in the total incomes of the partners be apportioned between the partners who in such previous year were entitled to receive the same:

Provided further that when the tax thus directly assessed cannot be recovered from a partner it shall be recovered from the firm as constituted at the time of making the assessment."

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) Where a person carrying on any business, profession or vocation has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub-section (4) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year:

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment shall be made on the person succeeding him, or when the tax assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid."

* * * *

Amendment of
section 28, Act
of 1922.

32. In section 28 of the said Act,—

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) If the Income-tax Officer, the Appellate Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that any person—

(a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or

(b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23, or

(c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding twice that amount, and in the cases referred to in clauses (b) and (c), in addition to any tax payable by him, a sum not exceeding twice the amount of the income-tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income :

Provided that—

- (a) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub-section (2) of section 22 ;
 - (b) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposed under this sub-section shall be a penalty not exceeding twenty-five rupees ;
 - (c) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in British India for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section has been served on him :
-) in sub-section (2), for the words " Assistant Commissioner " the words " Appellate Assistant Commissioner " shall be substituted ; for the words " in addition to the income-tax payable by him " the words " in addition to the income-tax and super-tax, if any, payable by him " shall be substituted, and for the words " not exceeding the amount of income-tax " the words " not exceeding twice the amount of income-tax and super-tax " shall be substituted ;
-) in sub-section (5), for the words " Assistant Commissioner " the words " Appellate Assistant Commissioner " shall be substituted.
- . In section 29 of the said Act, after the word and " section 23 " the words, brackets and figures " under sub-section (2) of section 49 " shall be inserted, after the word " penalty " the words, figures and " or when any tax is due from an assessee in pursuance of an order of His Majesty in Council appeal under section 66A " shall be inserted.
- . In section 30 of the said Act,—
-) in sub-section (1),—
- (i) for the words and figures " or rate at which he is assessed under section 23 or section 27 " the words and figures " of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 " shall be substituted ;

Amendment of
section 29, Act
XI of 1922.

Amendment of
section 30, Act
XI of 1922.

* * * * *

(ii) after the words "made by an Income-tax Officer" the following words, figures and letters shall be inserted, namely:—

or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49E, or to the amount of the refund allowed by the Income-tax Officer under any of those sections; and any assessee, being a company, objecting to an order made by an Income-tax Officer under sub-section (1) of section 23A";

(iii) for the words "Assistant Commissioner" the words "Appellate Assistant Commissioner" shall be substituted;

(iv) after the proviso the following provisos shall be added, namely:—

"Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income:

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income.";

b) in sub-section (2), after the words and figures "or of the date of the refusal to make a fresh assessment under section 27" the words, figures and letter "or of the intimation of an order under section 48, 49 or 49E" shall be inserted, and for the words "Assistant Commissioner" the words "Appellate Assistant Commissioner" shall be substituted.

In section 31 of the said Act,—

a) for the words "Assistant Commissioner", wherever they occur in the section, the words "Appellate Assistant Commissioner" shall be substituted;

b) after sub-section (2) the following sub-section shall be inserted, namely:—

"(2A) The Appellate Assistant Commissioner may at the hearing of an appeal allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.";

c) in sub-section (3),—

(i) in clause (a), after the word "assessment" the words "and in the case of an assessment on a firm or association of persons, authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association" shall be inserted;

(ii) in clause (b), after the words "fresh assessment", where they occur for the second time, the words "and determine where necessary the amount of tax payable on the basis of such fresh assessment" shall be added;

(iv) in the proviso, for the words "Provided that" the following shall be substituted, namely :—

"Provided that income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that"

(v) after the proviso the following proviso shall be added, namely :—

"Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this sub-section, and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.";

(b) in sub-section (2), the words "and not being a British subject or a firm or company constituted within His Majesty's Dominions or a branch thereof," shall be omitted;

(c) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) In the case of a business of which all the operations are not carried out in British India, the profits and gains of the business assessable under this section shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in British India."

Substitution of new section for section 44, Act XI of 1922.

Liability in case of a discontinued firm or association.

46. For section 44 of the said Act the following section shall be substituted, namely :—

"44. Where any business, profession or vocation carried on by a firm or association of persons has been discontinued, or where an association of persons is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or a member of such association shall, in respect of the income, profits and gains of the firm or association, be jointly and severally liable to assessment under Chapter IV and for the amount of tax payable and all the provisions of Chapter IV shall, so far as may be, apply to any such assessment."

Amendment of section 44C, Act XI of 1922.

47. In section 44C of the said Act, for the words "in any year" the words "in the year" shall be substituted.

Insertion of new Chapter VB in Act XI of 1922.

48. After Chapter VA of the said Act the following Chapter shall be inserted, namely :—

"CHAPTER VB.

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX * *

Avoidance of income-tax by transactions resulting in the transfer of income to persons resident or domiciled abroad.

44D. (1) Where any person has, by means of a transfer of assets, by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income which if it were the income of such person would be chargeable to income-tax becomes payable to a person not resident or to a person resident but not domiciled in British India, acquired any rights by virtue or in consequence of which he has within the meaning of this section power to enjoy such income, whether

43. In section 40 of the said Act, for the words "being in receipt on behalf of such beneficiary of any income" the words "being entitled to receive on behalf of such beneficiary any income" shall be substituted and to the said section the following proviso shall be added, namely :—

"Provided that in the case of a beneficiary being a person residing out of British India the tax may be levied upon and recovered from him direct."

44. (1) Section 41 of the said Act shall be re-numbered sub-section (1) of that section, and in the section so re-numbered,—

- (a) the words "are received by" shall be omitted;
- (b) after the words "the Official Trustees or" the word "by" shall be omitted;
- (c) after the words "appointed by or under any order of a Court" the words "or any trustee or trustees appointed under a duly executed trust deed, are entitled to receive on behalf of any person" shall be inserted;
- (d) after the words "receiver or manager", where they occur for the second time, the words "or trustee or trustees" shall be inserted;
- (e) for the words "any person on whose behalf such income, profits or gains are received" the words "the person on whose behalf such income, profits or gains are receivable" shall be substituted;

(2) the following provisos shall be added, namely :—

Provided that where any such income, profits or gains or any part thereof, are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate :

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part."

(2) To sub-section (1) of section 41 as so re-numbered the following sub-section shall be added, namely :—

"(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such person of the tax payable in respect of such income, profits or gains."

45. In section 42 of the said Act,—

(a) in sub-section (1),—

- (i) for the words "residing out of British India" the words "not resident in British India" shall be substituted;
- (ii) for the words "or property in British India" the following words shall be substituted, namely :—
in British India, or through or from any property in British India, or through or from any asset or source of income in British India, or through or from any money lent at interest and brought into British India in cash or in kind";
- (iii) for the words "in the name of the agent of any such person, and" the words "either in his name or in the name of his agent, and in the latter case" shall be substituted;

(d) after the proviso the following proviso shall be added, namely :—

“ Provided further that when the income, profits or gains concerned are income, profits or gains liable to assessment for a year ending prior to the commencement of the Indian Income-tax (Amendment) Act, 1938, or where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of a non-resident person under section 43, this sub-section shall have effect as if for the periods of eight years and four years a period of one year were substituted.”

(2) To the said section as so re-numbered the following sub-section shall be added, namely :—

“(2) No order of assessment under section 23 or of assessment or re-assessment under sub-section (1) of this section shall be made after the expiry, in any case to which clause (c) of sub-section (1) of section 28 applies, of eight years, and in any other case, of four years from the end of the year in which the income, profits or gains were first assessable.”

Amendment of
section 35,
Act XI of
1922.

40. In sub-section (1) of section 35 of the said Act,—

- (a) for the words “ Assistant Commissioner ”, in both places where they occur, the words “ Appellate Assistant Commissioner ” shall be substituted ;
- (b) for the words “ within one year ”, in both places where they occur, the words “ within four years ” shall be substituted ;
- (c) for the words “ demand made upon an assessee ” the words “ assessment order passed by him ” shall be substituted ;
- (d) for the words “ brought to his notice by the assessee ” the words “ brought to his notice by an assessee ” shall be substituted ;
- (e) after the proviso the following proviso shall be added, namely :—

“ Provided further that no such rectification shall be made of any mistake in any order passed more than one year before the commencement of the Indian Income-tax (Amendment) Act, 1938.”

Amendment of
section 37,
Act XI of
1922.

41. In section 37 of the said Act, for the words “ Assistant Commissioner ”, in both places where they occur, the words “ Appellate Assistant Commissioner ” shall be substituted.

Amendment of
section 38,
Act XI of
1922.

42. (1) Section 38 of the said Act shall be re-numbered as sub-section (1) of that section, and in the section so re-numbered, for clause (3) the following clause shall be substituted, namely :—

“(3) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head ‘ Salaries ’, amounting to more than two hundred rupees, together with particulars of all such payments made.”

(2) To the said section so re-numbered the following sub-section shall be added, namely :—

“(2) The Income-tax Officer or the Income-tax Inspector may visit the premises of any person liable or believed by him to be liable to assessment for the purpose of making any inquiries he considers necessary; and the Income-tax Officer may, if so authorised by the Commissioner in writing, enter any such premises and call for and inspect any such person's accounts and may stamp any accounts * * * so inspected.”

* * * *

(iii) for the words and figures "section 25 or section 28" the words, figures and letter "section 25, or section 48, 49 or 49E" shall be substituted ;

(iv) after clause (d) and before the proviso the following shall be inserted, namely :—

"or, in the case of an order under sub-section (1) of section 25A,

(e) confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25A,

or, in the case of an order under section 28

(f) confirm or cancel such order or vary it so as either to enhance or reduce the penalty

(v) in the proviso, after the word "assessment" the words "or a penalty" shall be inserted

(vi) after the proviso the following proviso shall be added, namely :—

"Provided further that at the hearing of an appeal against an order of an Income-tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative."

36. In sub-section (1) of section 32 of the said Act, ^{Amendment of section 32, Act XI of 1922.} for the words "Assistant Commissioner" the words "Appellate Assistant Commissioner" shall be substituted and for the words, brackets and figures "enhancing his assessment under sub-section (3) of section 31" the words, brackets and figures "under sub-section (3) of section 31 enhancing his assessment or a penalty imposed under section 28" shall be substituted.

37. In sub-section (1) of section 33 of the said Act, ^{Amendment of section 33, Act XI of 1922.} for the words "Assistant Commissioner" the words "Appellate Assistant Commissioner" shall be substituted and for the word, brackets and figure "sub-section (4)" the word, brackets and figure "sub-section (6)" shall be substituted.

38. Section 33A of the said Act shall be omitted. ^{Omission of section 33A, Act XI of 1922.}

39. (1) Section 34 of the said Act shall be re-numbered as sub-section (1) of that section, and in the section as so re-numbered,—

(a) for the words "for any reason" the words "the Income-tax Officer discovers that" shall be substituted ;

(b) for the words "has escaped assessment in any year, or has been assessed at too low a rate" the words "have escaped assessment in any year, or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act" shall be substituted ;

(c) for the words "at any time within one year" the following * * * shall be substituted, namely :—

"in any case to which clause (c) of sub-section (1) of section 28 applies, at any time within eight years, and in any other case at any time within four years"

forthwith or in the future, * * * that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of such first mentioned person for all the purposes of this Act.

* * * * *

(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not domiciled in British India, any sum paid or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for full consideration in money or money's worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act.

(3) Sub-sections (1) and (2) shall not apply if such first-mentioned person shows to the satisfaction of the Income-tax Officer either—

- (a) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or
- (b) that the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

(4) For the purposes of this section, an 'associated operation' means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets.

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy income of another person not resident or resident but not domiciled in British India, if—

- (a) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first mentioned person, or
- (b) the receipt or accrual of the income operates to increase the value to such first mentioned person of any assets held by him or for his benefit, or
- (c) such first mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which represent that income, or
- (d) such first mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or

- (e) such first mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income.

(6) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

7) For the purposes of this section—

- (a) the expression 'assets' includes property or rights of any kind, and the expression 'transfer' in relation to rights includes the creation of those rights;
- (b) the expression 'benefit' includes a payment of any kind;
- (c) references to income of a person not resident or of a person not domiciled in British India shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub-section (1) of section 23A, include references to so much of the income of the company for that year or period as is equal to the amount deemed to have been distributed to that person;
- (d) references to assets representing any assets, income or accumulations of income include references to shares in or obligations of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred;
- (e) any body corporate incorporated outside British India shall be treated as if it were resident out of British India whether it is so resident or not.

(8) The provisions of this section shall apply for the purposes of assessment to income-tax and super-tax for the financial year 1939-40 and subsequent years, and shall apply, in relation to transfers of assets and associated operations whether carried out before or after the commencement of the Indian Income-tax (Amendment) Act, 1938.

(9) Where any person has been charged to tax on any income deemed to be his under the provisions of this section, and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

44E. (1) Where the owner of any securities (in this sub-section and in sub-section (2) referred to as 'the owner') agrees to sell or transfer those securities, and by the same or any collateral agreement—

- (a) agrees to buy back or re-acquire the securities;
- or
- (b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of this Act to be the income of the owner and not to be the income of any other person.

(2) The references in sub-section (1) to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.

(3) Where any person carrying on a business which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—

- (a) agrees to sell back or re-transfer the securities, or
- (b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business.

(4) Sub-section (3) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.

(5) For the purpose of this section—

- (a) the expression 'interest' includes a dividend;
- (b) the expression 'securities' includes stocks and shares;
- (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(6) The Income-tax Officer may by notice in writing require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities; and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

44F. (1) Any person upon whom notice is served by the Income-tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest, and in respect of which, within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income-tax or super-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.

Avoidance of
tax by sales
cum dividend.

(2) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that such person has thereby avoided or would avoid more than ten per cent. of the amount of the income-tax or super-tax for any year which would have been payable in his case in respect of the income from those securities if the income had been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income-tax or super-tax, then those securities shall be deemed to be securities to which sub-section (3) applies.

(3) For the purposes of assessment to income-tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued :

Provided that this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income-tax or super-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 44E have been applied in his case in respect of such income.

(4) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income-tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income-tax or super-tax.

(5) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

(6) For the purpose of this section the expression 'securities' include stocks and shares."

Amendment of section 45, Act XI of 1922.

49. In section 45 of the said Act, for the words, brackets and figure "under sub-section (4)" the words, brackets and figure "under sub-section (2)" shall be substituted, and the words, figures and letter "or under section 33A" shall be omitted.

Amendment of section 46, Act XI of 1922.

50. In sub-section (7) of section 46 of the said Act, for the words "the year" the words "the financial year" shall be substituted.

Substitution of new section for section 48, Act XI of 1922.
Refunds.

51. For section 48 of the said Act the following section shall be substituted, namely :—

"48. (1) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess."

- (2) The Appellate Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers or powers of revision if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess.
- (3) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income.
- (4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or, where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief."

52. Section 48A of the said Act shall be omitted.

Omission of section 48A, Act XI of 1922.
Amendment of section 49, Act XI of 1922.

53. In section 49 of the said Act,—

(a) in sub-section (1),—

- (i) after the word "paid", where it occurs for the first time, the words and figures "by deduction under section 18 or otherwise" shall be inserted; after the word "paid", where it occurs for the second time, the words "by deduction or otherwise" shall be inserted, and for the words "for that year" the words "for the corresponding year" shall be substituted;
- (ii) the following proviso shall be added, namely:—

"Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief.";

* * * *

(b) in sub-section (2), for clause (b) the following clause shall be substituted, namely:—

"(b) the expression 'Indian rate of tax' means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under this section divided by his total income,

54. After section 49 of the said Act the following sections shall be inserted, namely:—

Insertion of new sections 49A, 49B and 49C in Act XI of 1922.

"49A. The Central Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both Indian income-tax (including super-tax) and the income-tax (including super-tax) charged by any specified Indian State or by any specified part of His Majesty's Dominions.

Relief in respect of Indian State and Dominion income-tax.

49B. Where a shareholder has received a dividend from a company which has paid income-tax imposed in British India or elsewhere, he shall be deemed, in respect of such dividend, himself to have paid the income-tax (exclusive of super-tax) paid by the company on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company has paid such income-tax bears to the whole income of the company.

49C. (1) Where a shareholder has received a dividend from a company which has obtained the relief referred to in section 49 or granted under section 49A or under the India and Burma (Income-tax Relief) Order, 1936, he shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted, in respect of income-tax only, to the company for the financial year preceding the year in which the dividend was paid.

(2) If the rate at which a shareholder is deemed under sub-section (1) to have obtained relief exceeds the rate at which he would have been entitled to relief had such relief been given direct to him by or under the said section or Order, any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under section 23 or section 34 or by setting it off against any relief due to him under section 48."

55. * Section 49A of the said Act shall be re-numbered 49D, and in that section so re-numbered, for the words "Assistant Commissioner" the words "Appellate Assistant Commissioner" shall be substituted.

56. * Section 49B of the said Act shall be re-numbered 49E, and in that section so re-numbered the word, figures and letter "or 48A" shall be omitted.

57. In section 50 of the said Act,—

(a) after the word "income-tax" the words "or super-tax" shall be inserted;

(b) for the words beginning "one year from the last day" and ending "whichever period may expire later" the following shall be substituted, namely:—

"four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India:

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1938, the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered or before the last day of the financial year commencing after the expiry of the previous year as defined in clause (11) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later:

- (c) in the existing proviso, after the word "Provided" the word "further" shall be inserted; after the word and figures "section 49" the words, brackets and figures "of tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1938" shall be inserted.

58. Section 50A of the said Act shall be omitted.

Omission of section 50A, Act XI of 1922.

59. In section 51 of the said Act,—

Amendment section 51, A XI of 1922.

- (a) in clause (c), before the word and figures "section 22" the words, brackets and figure "sub-section (2) of" shall be inserted;

- (b) for clause (e) the following clause shall be substituted, namely:—

"(e) to grant inspection of any accounts or documents in accordance with sub-section (2) of section 38 or section 39, or to allow copies to be taken of documents in accordance with section 39;"

60. In section 52 of the said Act, * after the words, figures and letter "or section 20A" the words and figures "or section 21" shall be inserted, and the words, brackets, figures and letters "or sub-section (2) of section 33A or sub-section (3) of section 50A" shall be omitted;

Amendment section 52, A XI of 1922.

*

61. In section 53 of the said Act,—

Amendment section 53, A XI of 1922.

- (a) in sub-section (1), for the words "Assistant Commissioner" * * * the words "Inspecting Assistant Commissioner" shall be substituted;

- (b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence, but when proceedings have been instituted, no composition for the offence shall be allowed without the leave of the Court before which such proceedings are pending."

62. In * * * section 54 of the said Act,—

Amendment section 54, Act XI of 19

- (a) in the first proviso to sub-section (2) the words "Provided that" shall be omitted and the proviso shall be numbered as sub-section (3);

- (b) in sub-section (3) so re-numbered,—

- (i) after clause (c) the following clauses shall be inserted, namely:—

"(d) of any such particulars to a Civil Court in any suit to which Government is a party, which relates to any matter arising out of any proceeding under this Act, or

(e) of any such particulars to the Auditor General of India for the purpose of enabling him to discharge his functions under section 144 of the Government of India Act, 1935, or

(f) of any such particulars to any officer appointed by the Auditor General of India or the Central Board of Revenue to audit income-tax receipts or refunds, or

- (g) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850, or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the Government of India Act, 1935, when exercising its functions in relation to any matter arising out of any such inquiry, or "
- ii) existing clause (cc) shall be re-lettered clause (h) and for existing clause (d) the following clauses shall be substituted, namely :—
- i) of such facts, to an authorised officer of the United Kingdom, Burma or Ceylon, or of any State in India which has entered into an agreement with British India for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 of this Act to be given, or
- j) of such facts, to an officer of a Provincial Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it on agricultural income, or
- k) of such facts, to any authority exercising powers under the Sea Customs Act, 1878, or any Act of the Central Legislature imposing a duty of excise as may be necessary for enabling it duly to exercise such powers, or
- (l) of such facts, to a Returning Officer, as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll ;
- (c) in the second and third provisos to sub-section (2) the words " Provided further that " shall be omitted and these provisos shall be numbered, respectively, as sub-section (4) and sub-section (5).

3. In section 55 of the said Act,—

- (a) for the words " association of individuals " the words " association of persons " shall be substituted ;
- (b) before the existing proviso the following proviso shall be inserted, namely :—
- " Provided that where under the provisions of clause (b) of sub-section (5) of section 24 a unregistered firm has been assessed in the manner applicable to a registered firm super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself : "
- and
- (c) in the existing proviso,—
- (i) after the word " Provided " the word " further " shall be inserted ;
- (ii) after the words " unregistered firm " the words " or other association of person not being a company " shall be inserted ;
- (iii) for the words " an individual having a share in the firm " the words " a partner of the firm or a member of the association as the case may be, " shall be substituted.

64. In section 56 of the said Act, for the words "association of individuals" the words "association of persons" shall be substituted. Amendment of section 56, Act XI of 1922.

65. Section 57 of the said Act shall be omitted. Omission of section 57, Act XI of 1922.

66. In section 58 of the said Act,—

(a) in sub-section (1), the figures "17", "21" and "48" shall be omitted and for the words, brackets and figures "sub-sections (2) and (3)" the word, brackets and figure "sub-section (2)" shall be substituted; Amendment of section 58, Act XI of 1922.

(b) in sub-section (2), for the words, brackets, figures and letters "sub-sections (3A), (3B), (3C) and (3D)" the words, brackets, figures and letters "sub-sections (2), (2A), (2B), (3B), (3C), (3D) and (3E)" shall be substituted and the word and figures "section 57" shall be omitted.

67. In clause (b) of section 58A of the said Act,— Amendment of section 58A, Act XI of 1922.

(a) in sub-clause (i) the words "individuals or" shall be omitted;

(b) in sub-clause (ii) the words and figures "or section 11" shall be omitted.

68. In section 58B of the said Act sub-section (2) shall be omitted, and sub-sections (3), (4) and (5) shall be re-numbered (2), (3) and (4), respectively. Amendment of section 58B, Act XI of 1922.

69. In section 58F of the said Act,—

(a) to sub-section (1) the words "or six thousand rupees, whichever is less" shall be added; Amendment of section 58F, Act XI of 1922.

(b) in sub-section (2), for the words beginning "In the accounts of a recognised provident fund" and ending "Such interest shall be exempt from payment of income-tax," the following shall be substituted, namely :—

"Interest credited on the accumulated balance of any employee in a recognised provident fund shall be exempt from payment of income-tax, if and in so far as it does not exceed one-third of the salary of the employee for the year concerned and".

70. In sub-section (3) of section 58G of the said Act, for the words beginning "from the payment of which" and ending "in addition to any other income-tax" the following shall be substituted, namely :— Amendment of section 58G, Act XI of 1922.

"and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax".

71. In sub-section (2) of section 58K of the said Act,— Amendment of section 58K, Act XI of 1922.

(a) after the word "shall" the following words shall be inserted, namely :—

" , if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee, ";

(b) for the word, brackets and figures "clause (ix)" the word, brackets and figures "clause (xii)" shall be substituted.

72. In sub-section (2) of section 59 of the said Act sub-clause (ii) of clause (a) shall be omitted, and sub-clause (iii) shall be re-numbered (ii).

73. In * * * section 60 of the said Act,—

(a) in sub-section (2), after the words “twelve months” the following words, brackets and figures shall be inserted, namely :—

“or a payment which is under the provisions of sub-section (1) of section 7 a profit in lieu of salary”, and

for the words “such relief as it may think fit” the words “the appropriate relief” shall be substituted.

(b) the following sub-section shall be added, namely :—

“(3) After the commencement of the Indian Income-tax (Amendment) Act, 1938, the power conferred by sub-section (1) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made.”

74. For section 61 of the said Act the following section shall be substituted, namely :—

“61. (1) Any assessee, who is entitled or required to attend before any Income-tax authority in connection with any proceeding under this Act otherwise than when required under section 37 to attend personally, for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income-tax practitioner, and not being disqualified by or under sub-section (3).

(2) In this section,—

(i) ‘lawyer’ means a Barrister-at-Law or Solicitor or any other person entitled to plead in any Court of law in British India ;

(ii) ‘accountant’ means a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue ;

(iii) ‘Income-tax practitioner’ means—

(a) any person who, before the 1st day of April, 1938, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee

(b) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue ; or

(c) any person who has acquired in any educational institution recognised in this behalf by the Central Board of Revenue qualifications recognised in this behalf by the Central Board of Revenue.

- (3) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub-section (1); and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1):

Provided that—

- (a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,
- (b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and
- (c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal."

Amendment of section 63, Act XI of 1922. **75.** In sub-section (2) of section 63 of the said Act, for the words "association of individuals" the words "association of persons" shall be substituted.

Amendment of section 64, Act XI of 1922. **76.** To sub-section (3) of section 64 of the said Act the following provisoes shall be added, namely:—

"Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 22 and has stated therein his principal place of business, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 22 or under section 34 for the making of a return:

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made."

Amendment of section 66, Act XI of 1922. **77.** In section 66 of the said Act,—

- (a) in sub-section (2), the words, figures and letter "or of a decision by a Board of Referees under section 33A" and the words "or decision", in both places where they occur, shall be omitted;
- (b) in the first proviso to sub-section (2), the words and figures "or section 32" shall be omitted;
- (c) in the proviso to sub-section (7), the following words shall be added, namely:—

"unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to His Majesty in Council, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to His Majesty in Council"

78. The following shall be added as a Schedule to the said Act, namely :—

Addition of
Schedule to
Act XI of
1922.

THE SCHEDULE.

[See section 10 (7)].

RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS.

1. In the case of any person who carries on, or at any time in the preceding year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business.

2. The profits and gains of life insurance business shall be taken to be either—

- (a) the gross external incomings of the preceding year from that business less the management expenses of that year; or
- (b) the annual average of the surplus disclosed by the actuarial valuation made for the last inter-valuation period ending before the year for which the assessment is to be made, after adjusting such surplus so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business,

whichever is the greater :

Provided that the amount to be allowed as management expenses under clause (a) shall not exceed $7\frac{1}{2}$ per cent. of the premiums received in respect of single premium life insurance policies plus 85 per cent. of the premiums received in respect of other life insurance policies, effected during the preceding year, plus $8\frac{1}{2}$ per cent. of all other premiums received during that year in respect of life insurance policies.

3. In computing the surplus for the purpose of rule 2;—

- (a) one-half of the amounts paid to or reserved for or expended on behalf of policyholders shall be allowed as a deduction :

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period :

Provided further that if any amount so reserved for policyholders ceases to be so reserved, and is not paid to or expended on behalf of policyholders, one-half of such amount, if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved :

- (b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets, shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus :

Provided that if upon investigation it appears to the Income-tax Officer that, having due regard to the necessity for making reasonable provision for bonuses to participating policyholders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just

- (c) the whole amount of interest received in respect of any securities of the Central Government which have been issued or declared to be income-tax free shall be deducted.

4. Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub-section (5) of section 18

for the tax paid in the preceding year, but credit shall be given for the annual average of the income-tax paid during such period.

5. For the purposes of these rules—

- (i) 'preceding year' means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, immediately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938, the previous year as defined in section 2 of this Act;
- (ii) 'gross external incomings' means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived except premiums received from policyholders, and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities;
- (iii) 'management expenses' means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policyholders and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules;
- (iv) 'life insurance business' means life insurance business as defined in clause (II) of section 2 of the Insurance Act, 1938.

6. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the Superintendent of Insurance, after adjusting such balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business. Profits and losses on the realisation of investments, and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance.

7. The profits and gains of companies carrying on dividing society or assessment business shall be taken to be 15 per cent. of the premium income of the previous year, or in the case of non-resident companies 15 per cent. of the British Indian premium income of the previous year.

8. The profits and gains of the British Indian branches of an insurance company not resident in British India, in the absence of more reliable data, may be deemed to be the proportion of the total world income of the company corresponding to the proportion which its British Indian premium income bears to its total premium income. For the purpose of this rule, the total world income of life insurance companies not resident in British India whose profits are periodically ascertained by actuarial valuation shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in British India.

9. These rules apply to the assessment of the profits of any business of insurance carried on by a mutual insurance company.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 10th November, 1938:—

L. A. BILL No. 24 OF 1938.

A Bill further to amend the Indian Merchant Shipping Act, 1923.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Merchant Shipping (Amendment) Act, 1939. Short title.
2. In section 62 of the Indian Merchant Shipping Act, 1923, sub-section (2) shall be re-numbered as sub-section (3) and the following shall be inserted as sub-section (2), namely:— Amendment of section 62, Act XXI of 1923.
 - “ (2) The provisions of clauses (b) and (c) of sub-section (1) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund approved in this behalf by the Central Government, the main purpose of which is the provision of benefits for seamen on retirement; and the provisions of clauses (a) and (d) of sub-section (1) shall not apply to anything done or to be done for giving effect to such an assignment.”

STATEMENT OF OBJECTS AND REASONS.

The Scindia Steam Navigation Company, Limited, have recently instituted a Provident Fund scheme for the benefit of their staff afloat. Briefly, the Fund is to be financed partly by contributions payable by all eligible members of the staff by deduction at a fixed percentage (8 1/3 per cent.) from their monthly wages and partly by a contribution by the employers of an amount equal to the annual aggregate contributions of all the members. In pursuance of this scheme, the Scindia Steam Navigation Company have proposed the insertion in the Articles of Agreement of the staff of a clause to provide for the necessary deduction to be made from their wages, which in the case of an agreement with a ‘seaman’ as defined in section 2(1) (8) of the Indian Merchant Shipping Act, 1923 (XXI of 1923) requires the sanction of the Central Government under section 28 (1) of that Act.

2. The British National Maritime Board have also recently brought into operation a contributory pension scheme for officers in the Merchant Navy which is to be financed similarly by contributions equal to a prescribed percentage (7½ per cent.) of the officers’ salaries, an equal amount being payable by their employers. As the officers’ contributions are to be deducted from their salaries, the British India Steam Navigation Company, Limited have also requested sanction to the inclusion of an additional stipulation similar to the one proposed by the Scindia Steam Navigation Company in all Articles of Agreement with seamen engaged by them.

3. Section 62 of the Indian Merchant Shipping Act, 1923, however provides *inter alia* that an assignment of his wages, before they accrue made by a seaman shall not be binding upon him, and unless this section is modified suitably assignments to a Pension or Provident Fund will not be in accordance with the law, and the Central Government cannot accord the requisite sanction to the inclusion of the proposed clause in the Article of Agreement. A provision similar to that in section 62 of the Indian Merchant Shipping Act, 1923, also existed in section 163 of the Merchant

Shipping Act, 1894 (57 & 58 Vict., c. 60), which was amended last year by an Act of Parliament [The Merchant Shipping (Superannuation Contributions) Act, 1937] to legalise the payment of contributions by seamen out of their wages to the Merchant Navy Officers Pension Fund and certain other specified Funds. It is accordingly proposed to amend section 62 of the Indian Merchant Shipping Act, 1923, on the lines of the amendment made in the Merchant Shipping Act, 1894, and the present Bill is intended to give effect to this proposal.

NEW DELHI ;

The 31st October, 1938.

ZAFRULLAH KHAN.

MD. RAFI,

Secy. to the Govt. of India.